

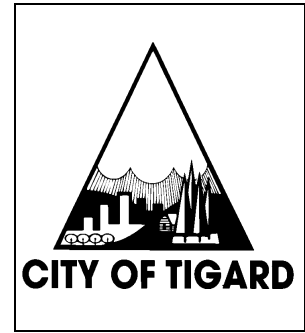
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TIGARD CITY COUNCIL  
BUSINESS MEETING

July 24, 2001      6:30 p.m.

TIGARD CITY HALL  
13125 SW HALL BLVD  
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Visitor's Agenda items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, Ext. 309 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, x309 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A  
TIGARD CITY COUNCIL BUSINESS MEETING  
JULY 24, 2001

6:30 PM

- STUDY MEETING

- > EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to discuss labor relations under ORS 192.660(1)(d). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(3), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

- 1. BUSINESS MEETING

- 1.1 Call to Order - City Council & Local Contract Review Board
- 1.2 Roll Call
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports
- 1.5 Call to Council and Staff for Non-Agenda Items

- 2. VISITOR'S AGENDA (Two Minutes or Less, Please)

- 3. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:

- 3.1 Approve Council Minutes: May 22, 2001
- 3.2 Receive and File: Council Goal Update
- 3.3 Approve Modifications to the Council Groundrules – Resolution No. 01-\_\_\_\_
- 3.4 Approve Budget Amendment No. 2 to the FY 2001-02 Budget to Transfer \$29,376 from the Water Quality/Quantity Fund Contingency to the Capital Improvements Program for Funding of the Healthy Streams Plan Agreement with Clean Water Services (Formerly Unified Sewerage Agency) – Resolution No. 01-\_\_\_\_
- 3.5 Authorize the City Manager to Sign a Settlement Agreement with Qwest

- 3.6 Local Contract Review Board:
- a. Authorize the City Manager to Sign a Contract with Spencer & Kupper for Consultant Services for the Washington Square Regional Center Implementation Plan – Resolution 01-\_\_\_\_\_
  - b. Authorize the City Manager to Sign Aquifer Storage and Recovery (ASR) Project, Phase 2, Contract with Montgomery Watson
  - c. Reject Bid Proposals for the Construction of Bonita Road Sanitary Sewer Improvements
  - d. Reject Bid Proposals for the Construction of FY 2001-2002 Pavement Major Program (PMMP) and Embedded Crosswalk Lighting System Project
- 3.7 Adopt the OPEU Collective Bargaining Agreement and Authorize the City Manager to Sign the Final Draft

- *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.*

4. PRESENTATION BY PORTLAND GENERAL ELECTRIC (PGE) ON RECENT CIVIC RESPONSIBILITY AND ENERGY ISSUE POLLS
- a. Introduction: Finance Department
  - b. Presentation by Karen Lee, PGE Government Affairs Office
  - c. Council Discussion/Questions
5. UPDATE FROM THE NEW TIGARD LIBRARY CONSTRUCTION COMMITTEE
- a. Introduction: Library Department
  - b. Update from the New Tigard Library Construction Committee Members
  - c. Council Discussion/Questions
  - d. Council Direction to the New Library Construction Committee
6. QUASI-JUDICIAL PUBLIC HEARING – CONSIDER THE APPEAL OF THE BLUE HERON PARK SUBDIVISION (SUB 2001-00001, PDR 2001-00001, ZON 2001-0002, SLR 2001-00003, VAR 2001-00002)

**ITEM ON APPEAL:** On June 11, 2001, the Planning Commission denied a request for approval of an 18-lot subdivision on 4.15 acres. The lots are to be developed with attached single-family homes. Lot sizes within the development average just over 3,800 square feet. Development is to be clustered on the west side of the development site, allowing for the preservation and enhancement of the

pond, wetland, and stream area on the eastern portion of the property. A sensitive lands review is required for the development due to the presence of steep slopes, a wetland, and a natural drainageway on the site. On June 22, 2001 an appeal was filed regarding the Planning Commission's denial of the project. **LOCATION:** 12450 SW Walnut Street; WCTM 2S103BC, Tax Lot 3900. The project site is located on the south side of SW Walnut Street, opposite of SW 124<sup>th</sup> Avenue and west of SW 121<sup>st</sup> Avenue. **ZONE:** R-4.5: Low-Density Residential District. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally. **REVIEW CRITERIA BEING APPEALED:** Community Development Code Chapter 18.390.

- a. Open Public Hearing
- b. Declarations or Challenges
- c. Staff Report: Community Development Department
- d. Public Testimony
- e. Staff Recommendation
- f. Council Questions
- g. Close Public Hearing
- h. Council Consideration: Consider Resolution to either uphold or reverse the Planning Commission's denial of the Blue Heron Park Subdivision.

7. COUNCIL LIAISON REPORTS

8. NON AGENDA ITEMS

9. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(3), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

10. ADJOURNMENT

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TIGARD CITY COUNCIL  
MEETING MINUTES  
MAY 22, 2001

- STUDY SESSION
  - Council Present: Mayor Griffith; Councilors Dirksen, Moore, and Patton.
  - The meeting was called to order at 6:30 p.m.
  - Administrative Items:
    - City Manager Monahan advised that there might be visitors during the "Visitors Agenda" portion of the meeting who will want to speak about right-of-way maintenance and also members of Tigard staff who will want to inquire about health insurance.
    - City Manager Monahan noted that a correction to the April 10, 2001, meeting minutes was submitted to the City Council. On Page 6, Consideration by Council for Resolution No. 01-14, should read: "Motion by Councilor Moore, seconded by Councilor Scheckla, to adopt Resolution No. 01-14."
    - Additional information was distributed to the City Council on "Take the Time Washington County," which is a School District program for which the District is asking for endorsement by the City Council.
    - Metro Councilor Carl Hosticka has requested a meeting with Tigard officials. Also expected to attend would be Jeff Roach (Trust for Public Lands), Tom Brian (Commission Chair for Washington County), Dick Shouton (Commissioner for Washington County), John Griffith (Tualatin Hills Parks & Recreation), and Bill Gaffi (Unified Sewerage Agency). After discussion, it was determined that Councilors Moore and Dirksen could meet either on June 6 or June 18, 2001.
  - > EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:35 p.m. to discuss labor relations, real property transaction, and pending litigation under ORS 192.660(1)(d)(e) and (h).

Executive Session adjourned at 7:30 p.m.

Note: Council continued discussion of Study Session agenda items after the Business Agenda.

1. BUSINESS MEETING

- 1.1 Mayor Griffith called the Council and Local Contract Review Board meeting to order at 7:37 p.m.
- 1.2 Roll Call: Mayor Griffith; Councilors Dirksen, Moore, and Patton
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports: None
- 1.5 Call to Council and Staff for Non-Agenda Items: City Manager Monahan noted that several study meeting topics will be continued for further discussion after the business meeting agenda items are reviewed by the Council.

2. VISITOR'S AGENDA

- Paul Hunt, 10320 SW Century Oak Drive, Tigard, Oregon 97224 testified with regard to City regulations on maintenance of the rights-of-way and sidewalks on major collectors in the City of Tigard. Mr. Hunt requested that he be allowed to use the time of others who have signed up on this subject to submit comments, advising he was speaking as a representative of the Summerfield Civic Association and its members. A written copy of Mr. Hunt's comments is on file with the City Recorder.

Brief Council discussion followed. Mr. Hunt was advised that this item was scheduled for further Council review on June 12, 2001.

- Webelo Boy Scout Troop—Scott Boysen of a local Webelo Boy Scout Troop advised that he and several members were present at the City Council meeting as a requirement to earn a citizenship badge. Mayor Griffith welcomed the Troop members and presented them with a City of Tigard logo pin.
- Michael Smith, 11645 SW Cloud Court, Tigard, Oregon, advised he represented Tim Roth who was negotiating a real estate transaction with the City of Tigard.

City Attorney Ramis advised Mr. Smith that the Council has given instructions to City staff with regard to the City's position on this transaction. He told Mr. Smith that it is not the normal process to negotiate across the bench.

City Manager Monahan advised Mr. Smith that staff would be contacting him tomorrow.

3. PROCLAMATION:

Mayor Griffith declared the week of May 20-26 as Emergency Medical Services Week. Mr. J. D. Fuiten of Metro West Ambulance noted it has been the pleasure of Metro West to serve Tigard for the last 27 years. He presented the City Council with a plaque.

4. CONSENT AGENDA: Motion by Councilor Patton, seconded by Councilor Moore, to approve the Consent Agenda:
  - 4.1 Approve Council Minutes: April 10, 2001
  - 4.2 Receive and File:
    - Apprise City Council of Expenditure of Forfeiture Funds – Clandestine Lab Equipment
  - 4.3 Make a Reimbursement Declaration and Authorize Subsequent Reimbursement Actions – (City of Tigard Library) – Resolution No. 01-25

The motion was approved by a unanimous vote of Council present.

#### 4. LIBRARY SUMMER UPDATE

Library Director Margaret Barnes updated the City Council on the Library Summer programs, including:

- Technology classes for adults
- Cultural pass program
- Classes for parents and caregivers
- Teen's and children's summer reading program
- Fridays by Request (The Library is now open until 9 p.m. on Fridays. During June, there will be musical entertainment on Fridays sponsored by the Friends of the Library.)

There was brief discussion on the use of the Internet at the Library. Ms. Barnes noted for children there is one "filtered" workstation. In addition, there are privacy screens on computer stations, so patrons walking behind computer users cannot easily view what is on the computer screen.

#### 6. COUNCIL LIAISON REPORTS

- The Mayor, City Manager Monahan, and Assistant to the City Manager Newton will attend an upcoming VisionWest event.
- A Washington County Cooperative Library Association (WCCLS) event will occur on Friday, May 25, 3-5 p.m., featuring musician/dancer Chata Addy at Fanno Creek Park.
- Announced that there will be a Tri-Met event on Thursday, May 24, 1-1:30 p.m. at the Tigard Transit Center at SW Main and Commercial Streets. This ceremony will recognize the American Public Transit Association's selection of Ride Connection and Tri-Met for a national Welfare-to-Work Award.

- Announced that the Tualatin Hills Park & Recreation District is holding a public celebration for the Fanno Creek Trail (which runs from Garden Home Recreation Center to 92<sup>nd</sup> and Allen Boulevard) on Saturday, June 2, 2001, 10 a.m. – Noon.

7. NON AGENDA ITEMS: None

-- Study Meeting items were continued at this time (8:20 p.m.)

- Olympic Torch Run – After brief discussion, Council directed the City Manager and City Recorder to determine how to select a judge(s) for the Olympic Torch Run applicants. Judges will be needed to review applications for Torch Bearers in our region, the Columbia River Region.
- Memorial - On Friday, May 25, there will be a dedication of a memorial bench in honor of Jo Hayes, past City of Tigard employee who passed away in January 2001. The service will be held at 8:30 a.m. at the front of City Hall.
- > Preview City Sponsorship Resolutions and Agreements
  - City Recorder Wheatley reviewed the staff report for this agenda item. The staff report is on file with the City Recorder. After brief discussion, it was determined that the agreements for the three events should be more specific to the event (i.e., Balloon Festival, Broadway Rose and 4<sup>th</sup> of July). Councilor Patton offered to assist with reviewing language for the 4<sup>th</sup> of July organization. This item will return to Council for further review.

➤ TAKE THE TIME WASHINGTON COUNTY

Mayor Griffith updated Council on the recent meeting he attended with regarded to this “asset” assessment survey, which may be administered to selected School District students (6<sup>th</sup>, 8<sup>th</sup> and 10<sup>th</sup> grades). Information was previously distributed to the City Council for review.

Lengthy discussion followed. It was noted that the assessment would be used to determine programming for students. Several Council members expressed concern about endorsing the survey. They expressed reservations about whether this was within the authority/expertise of the City Council. After discussion, City Manager Monahan was directed to advise the School District that the City Council did not want to be listed on the endorsement letter. However, the Council will support the School District’s decision since the Council is confident in the District’s leadership on these kinds of educational issues. The Council is not comfortable in making a decision on the merits of the survey since it is beyond the Council’s authority. If the District chooses to administer the survey, the Council will be anxious to learn the results and will support programs identified as a result.



- The Council briefly reviewed with City Attorney Ramis a letter received from City County Insurance Services (CIS) regarding personal liability exposure for public elected officials. The letter serves to remind Council members of the parameters of authority allowed through their elected status as outlined within said letter. A copy of the CIS letter is on file with the City Recorder.
  - City Manager Monahan reviewed the ICMA/USAID Program (further described in a May 18, 2001, memorandum from the City Manager to the City Council, which is on file with the City Recorder). Consensus of Council was that it favored further consideration. City Manager advised a proposed resolution would be presented for formal approval at the June 12, 2001, City Council meeting.
8. CITY MANAGER REVIEW (Discussed in Executive Session; criteria of the review will be based upon the provisions of the City Manager's employment agreement.)
  9. EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 9:10 p.m. under the provisions of ORS 192.660 (1) (i) to review and evaluate the employment-related performance of the chief executive officer.
  10. ADJOURNMENT: 9:26 p.m.

\_\_\_\_\_  
City Recorder, Catherine Wheatley

Attest:

\_\_\_\_\_  
Mayor, City of Tigard

Date: \_\_\_\_\_

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AGENDA ITEM # 3.2  
FOR AGENDA OF July 24, 2001

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Receive and File: Council Goal Update

PREPARED BY: C.Wheatley DEPT HEAD OK \_\_\_\_\_ CITY MGR OK \_\_\_\_\_

ISSUE BEFORE THE COUNCIL

Update on the progress of the Council goals for the second quarter of 2001.

STAFF RECOMMENDATION

Receive and file the update.

INFORMATION SUMMARY

Attached are brief summaries of the progress made in the second quarter of 2001 on the Council goals developed by the Council in January 2001.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Visioning goals are identified throughout the goals and tasks developed by the City Council.

FISCAL NOTES

N/A

# 2001 Tigard City Council Goals

## July 2001 Update

### Goal 1

#### Transportation.

Staff Responsible: Jim Hendryx and Gus Duenas

Continue the City's Transportation Improvement Program:

- a. Complete the City Transportation System Plan, discuss funding mechanisms and initiate implementation.
- b. Support and promote commuter rail.
- c. Develop a fixed route bus program for Tigard intra-city service.
- d. Revisit Transportation Improvement Projects (the 2000 bond measure) and potential funding sources.
- e. Promote resolution of 99W issues (and other state owned facilities in Tigard).

#### Tasks:

1. Reconstitute the Bond Measure Task Force.
2. Review the bond measure options.
3. Discuss alternative funding solutions
4. Work with Washington County to promote funding of commuter rail.
5. Address issues of Hwy 99W with ODOT and raise issues to the 2001 legislature.
6. Continue to improve pedestrian/pathway connections.
7. Review the need for sidewalk and street lighting improvements, even on trails.
8. Implement the City Transportation Improvement Program.
9. Promote opportunities to travel through the City of Tigard without accessing Hwy 99W.

## July 2001 Update (Engineering)

The Transportation Financing Strategies Task force has met three times since April 2001. The Task Force is evaluating funding sources for both corrective and preventive maintenance of City streets, and expansion of major collectors to accommodate current and future traffic. One potential major funding source for street maintenance is a transportation user fee (street utility fee). The City of Portland recently included such a fee in their Fiscal Year 2001-02 budget. The cities of Tualatin, Wilsonville, Eugene, and others have initiated that type of fee for their street maintenance work.

On June 21, 2001, the Task Force listened to a presentation by Dan Boss, Operations Director of Tualatin on that City's Street Maintenance Fee. The Task Force is seriously considering implementation of a Transportation User Fee to help protect the City's investment in the street infrastructure. The League of Oregon Cities has warned us about attempts by the state legislature to cap or preempt street utility fees. We have gone on record to strongly oppose any such legislative attempts to preempt Oregon cities from initiating such fees. Mayor Griffith has sent letters to both Senator Deckert and Representative Williams strongly opposing any legislative action to preempt these fees.

The initial progress report by the Task Force to City Council is scheduled for August 28, 2001. Progress reports from the Task Force will be at approximately six-month intervals until the Task Force mission is accomplished.

## July 2001 Update (Community Development)

- a. *Complete the City Transportation System Plan, discuss funding mechanisms and initiate implementation.*

Timing for adoption of the TSP has been discussed with the City Attorney and a strategy has been developed to address Measure 7 concerns. Staffing levels and the availability of the consultant will delay further action until Fall of 2001.

- b. *Support and promote commuter rail.*

The State Legislature has approved funding for the local share of the Commuter Rail Project. Federal funding is now being sought. Construction is scheduled for completion in the Fall of 2004.

- c. *Develop a fixed route bus program for Tigard intra-city service.*

Council recently prioritized needed transit improvements at its June 19, 2001 workshop. Working with the Westside Transportation Alliance, Council's priorities will be emphasized to Tri-Met.

*d. Develop a fixed route bus program for Tigard intra-city service.*

Council recently prioritized needed transit improvements at its June 19, 2001 workshop. Working with the Westside Transportation Alliance, Council's priorities will be emphasized to Tri-Met.

April 2001

Continue the City's Transportation Improvement Program

- a. *Complete the City Transportation System Plan, discuss funding mechanisms and initiate implementation.*

The Planning Commission Hearing was conducted on February 5, 2001. Planning Commission approved the TSP and recommended that it be forwarded to City Council. Planning staff is keeping a comment log on the TSP, which is currently in draft version pending comments and public hearing before adoption. Once all the comments have been received, all revisions to the draft plan will be made and a final version will be published with relevant comments incorporated.

The TSP workshop with City Council was conducted on March 20, 2001. DKS, the TSP consultant, made a presentation, answered questions from Council, and received comments from Councilors regarding various aspects of the Plan. Councilors were concerned about the lack of intra-City bus service and wished to have that emphasized in the TSP. The impact of Measure 7 is still to be ascertained. There will be consultation with the City Attorney's office on the ramifications of adopting the TSP, but not moving to revised the Municipal Code until later. The timing for adoption of the TSP will be reviewed periodically during the next few months as these discussions with the City Attorney and City Council continues.

- b. *Support and promote commuter rail.*

A resolution of support from the Tigard City Council, and letters of support from the Tigard Chamber of Commerce, Tigard Central Business District Association and its Board Members, have been sent to the Governor and key Legislators.

- c. *Develop a fixed route bus program for Tigard intra-city service.*

Working with the Westside Transportation Alliance, an additional year of funding has been awarded to continue the Access to Work program into 2003/2004. Washington County received federal funding to expand the Transit Choices for Livability program in the County. Staff continues to work with the County and the Westside Transportation Alliance to increase transit options in Tigard.

Correspondence has been sent to Tri-Met requesting detailed information on the amount of transit taxes paid by businesses within the community vs. the level of transit service received.

- d. *Revisit Transportation Improvement Projects (the 2000 bond measure) and potential funding sources.*

City Council passed Resolution 01-06 appointing a Transportation Financing Strategies Task Force to re-evaluate the bond package, determine what went wrong with the bond issue and make recommendations to City Council for future funding strategies. The first meeting of this Task Force is scheduled for April 19, 2001. The Task Force will be presenting periodic progress reports every quarter. Major transportation improvements, safety projects, and traffic calming measures will continue to be incorporated in the yearly Capital Improvement Program subject to the availability of funding.

- e. *Promote resolution of 99W issues (and other state owned facilities in Tigard)*

Staff continues to coordinate with the Oregon Department of Transportation on the level of improvements needed on 99W and other state owned facilities. Opportunities for grant funding is being evaluated to further peruse this effort.

## Goal 2      Provide recreational opportunities.

Staff Responsible: Jim Hendryx

### Tasks:

1. Develop and define a strategy to provide recreation opportunities for all citizen needs including:
  - a. Programs
  - b. Facilities
  - c. Activities
2. Evaluate the need for a separate Parks and Recreation Committee.

### July 2001 Update:

The Mayor's Youth Forum has met four times since February. The group is focusing on programs and services for youth in the community. A Community Youth Service/Program Resource Inventory has been prepared that briefly describes all of the current programs and services available to youth in the community and the challenges and limitations to continuing various programs. The Youth Forum is assessing ways the group can help service and program providers meet those challenges.

A representative of the Boys and Girls Clubs spoke to the Youth Forum and the Forum will research in the coming months how a Boys and Girls Club might serve Tigard Youth.

In the next few months, the Youth Forum will also focus on getting youth involved in addressing the issues.



April 2001

Many organizations are attempting to fill voids in recreation opportunities for youth in Tigard. On February 27, 2001, Mayor Griffith hosted a Tigard Youth Forum. The idea was to brainstorm what services are being provided now for youth and what additional services are needed.

The main theme seemed to be buses and rooms for programs are available from the schools, however, funding is the issue. A discussion was held about forming a Youth Advisory Committee. A Steering Committee is working on this formation.

**Goal 3        Support the efforts of the Tigard Central Business District Association (TCBDA) and their plan to revitalize the downtown.**

**Staff Responsible: Jim Hendryx**

Tasks:

1. Assist in getting funding for implementation of the TCBDA downtown program.
2. Determine the level of City financial support to the revitalization effort.
3. Review development code requirements that affect the downtown (i.e., parking, etc.).

July 2001 Update:

1. *Assist in getting funding for implementation of the TCBDA downtown program.*

Public hearings are scheduled in July and August to establish an Economic Improvement District. The district would fund the TCBDA's program for improving the downtown.

2. *Review development code requirements that affect the downtown (i.e., parking, etc.).*

Measure 7 related issues have been resolved and the parking provisions are scheduled before Council in the Fall of 2001.

April 2001

- a. *Assist in getting funding for implementation of the TCBDA downtown program.*

TCBDA, with financial assistance from Tigard, has contracted with the Oregon Downtown Development Association (ODDA) to evaluate and pursue funding options. TCBDA has evaluated options and is pursuing creating Economic and Business Improvement Districts to support their revitalization efforts. A preliminary budget has been established, assessments determined, and the program developed. Funding for the program would come from a variety of sources including property and business owners and the City. Presentations have been made before the CIT, City Council and business and property owners outlining the accomplishments of TCBDA and the proposed revitalization program. A public hearing to enable the City to establish an Economic Improvement District and a Business Improvement District is scheduled before City Council on April 10, 2001. Public hearings to create the Economic Improvement District are tentatively scheduled in June and July of 2001.

- b. *Determine the level of City financial support to the revitalization effort.*

Establishment of an Economic Improvement District and Business Improvement District (EID/BID) would establish the level of support from the City. The City's preliminary contribution towards the EID/BID would be approximately \$26,667 per year.

- c. *Review development code requirements that affect the downtown (i.e., parking etc.).*

Prior to voter approval of Measure 7, staff working with TCBDA proposed to modify the parking standard for businesses along Main Street. Conversion of existing buildings to uses requiring more parking would not be required to provide the additional off-street parking. The Planning Commission considered the amendment and voted unanimously in support of the amendment. Furthermore, new buildings replicating the square footage of existing buildings would not be required to provide off-street parking. Entertainment businesses would be excluded from these provisions. Measure 7 delayed further action on this amendment.

## Goal 4      Continue to implement the City Park Master Plan.

Staff Responsible: Jim Hendryx

### Tasks:

1. Apply funding to the plan.
2. Urge that Washington County establish a Parks Systems Development charge for the Tigard Urban Services area.
3. Complete the Summerlake Park plan.
4. Update the City Park master plan elements as land is added to the City system.
5. Continue to implement the Cook Park master plan.
6. Continue discussions with the Tigard-Tualatin School District for creation of a City Park associated with the proposed Alberta Rider School.

### July 2001 Update:

The City parks SDC was revised upward by an average of 57% effective July 1<sup>st</sup>.

The Washington County Commission has expressed majority support for an Urban Services Area park SDC. This support is tied to the development of an annexation plan for the area. An annexation study is now underway.

The park consultant has submitted a revised proposal for completing the Summer Lake Park master plan through a public process.

The bid process for the first phase of the revised Cook Park Master plan has been completed and construction is now underway. The work will be partially financed by a \$250,000 state grant award. An application for a state loan to provide additional funding is currently pending.

Construction of the Tiedeman/Woodard Park segment of the Fanno Creek trail is set to start in August. Funding will come from a \$50,000 federal Recreational Trails Program grant and Local Share Greenspaces dollars.

Grant applications for facility improvements to Woodard Park, a children's play structure and a picnic shelter, are pending.

## April 2001

- ◆ The proposed 2001-02 parks CIP includes four projects identified in the master plan. These include Cook Park, the dog park, Fanno Creek trail extension, and Woodard Park play structure (contingent on grant funding).
- ◆ A meeting between City and County officials regarding the unincorporated park SDC is set for April 10<sup>th</sup>.
- ◆ With the recent completion of the lake management plan, staff now will move forward with completion of the Summer Lake park master plan.
- ◆ A master plan for Northview Park has been completed and will be considered for adoption by Council in April.
- ◆ Phase one of the three-phase Cook Park Master Plan is set for FY 2001-02 implementation.
- ◆ Discussions with the School District regarding a joint use park are ongoing.

## Goal 5 Determine the City's long-term water supply.

Staff Responsible: Ed Wegner

### Tasks:

1. Evaluate the three options presently under review.

### July 2001 Update:

The City continues to work on long-term water supply options. The Intergovernmental Water Board and Joyce Patton, Council Liaison, continue to review and explore the Joint Water Commission and the City of Portland.

### South Fork Water Board/Clackamas River

1. South Fork Water Board has decided not to explore further options with Tigard and Lake Oswego.

### Joint Water Commission

1. A Memorandum of Understanding was signed by Tigard and the Commission outlining future water sales, participation in a capital improvement program and working together in a long-term water supply study.
2. The Integrated Water Resources Manager's Group signed a Joint Funding Agreement to fund a study of the feasibility of new sources to meet the needs of domestic, commercial, industrial and agricultural users within the Tualatin River Basin.

### Portland Water/Bull Run

1. Negotiations on a wholesale contract are going very slowly. We (Wholesaler Group) hope to have a draft of an interim contract by July 18.
2. On April 25, 2001, Portland City Council approved a resolution endorsing the development of a regional water entity. Councilor Patton testified in favor of this resolution. Things are moving slowly. We have had two preliminary meetings and agencies have until July 13, 2001, to notify Portland if they would like to participate in the discussions. Thus far, Tigard, Tualatin, Beaverton, Gresham, and Clackamas River Water District have indicated a willingness to participate.

April 2001

The City continues to work on three long-term water options, until such time that sufficient data is available for Tigard and its Intergovernmental Water Board partners to make a decision.

**South Fork Water Board/Clackamas River**

On March 15, 2001, the SFWB met to discuss three options that are available to South Fork with regard to alliances with other entities:

- |          |   |
|----------|---|
| Option 1 | Take no action – preserve status quo.                   |
| Option 2 | Proceed with formation of new intergovernmental entity. |
| Option 3 | Enter into wholesale water contracts.                   |

After much discussion, the matter was held over to a later meeting.

**Portland Water Wholesale Contract**

- ◆ Negotiations on the wholesale contract are going very slowly. We are still awaiting a staff response to the proposed wholesale contract.
- ◆ Commissioner Erik Sten of the Portland City Council recently suggested that the Bull Run water source become a more regional asset with regional ownership. We are awaiting Portland's next move.

**Joint Water Commission**

- ◆ Staff continues to work on a Memorandum of Understanding allowing Tigard to become a partner when an additional water source is secured and is selling surplus water.

**Goal 6      Establish an annexation policy for non-island areas.**  
**Staff Responsible: Jim Hendryx**

Tasks:

1. Consider options available to apply to annexation proposals.
2. Determine if the City should actively encourage annexation of:
  - a. Parcels
  - b. Areas

July 2001 Update:

Discussions have occurred with representation from Washington County on evaluating annexation of Bull Mountain. An intern has been hired to assist in preparing a study on the feasibility of annexing the area. The study should be completed in Fall of 2001.

A focus meeting with selected citizen representatives from the area is scheduled for July 26, 2001. Results of the meeting will shape the scope of the study.

April 2001

Council provided direction to staff at the March 20, 2001 work session to prepare a study for the Bull Mountain area. After the study is completed, staff will present this information and ask for further direction from Council.



**Goal 7      Encourage and support private sector programs to rehabilitate existing, and develop new, affordable housing.**

**Staff Responsible: Jim Hendryx**

Tasks:

1. Continue to enforce the housing code.
2. Consider ways to support provision of affordable housing.

**July 2001 Update:**

1. Continue to enforce the housing code by working with owners to bring buildings into compliance. Close cooperation with TVF&R is ongoing.
2. On July 17<sup>th</sup>, Council will consider a request from Community Partners for Affordable Housing (CPAH) for \$10,000 in fee relief for its new 26-unit affordable housing project. If granted, the fee relief would allow CPAH to reduce the rent on one three-bedroom unit to a level affordable to a family earning 30% of median income.

April 2001

1. Continue to enforce Housing Code:

- ◆ Housing complaints generally resolved within 2-3 days, the few exceptions have involved issues requiring permits and corrective action;
- ◆ Have not yet had to issue formal summons to court to resolve housing complaints – all have been resolved with “voluntary” cooperation;
- ◆ Close cooperation with TVF&R is ongoing, seeking ways to improve fire safety at apartment complexes.

2. Enforce Building Codes:

- ◆ Have not yet had to bring cases into court to resolve building complaints – most respondents have come into “voluntary” compliance on receipt of a formal Notice of Violation, and all of those we have served with Summonses have (so far) chosen to come into compliance before appearing in court;

3. Code Enforcement procedures:

- ◆ Have proposed a few “housekeeping” updates to the Municipal Code to clarify parts of the Civil Infractions Enforcement Process;

4. Private Sector Programs: No requests for information or support have been received from the private sector regarding “affordable housing.”

Affordable Housing: Council consideration of options for supporting affordable housing has been placed on hold until the impact of Measure 7 is better known.

**Goal 8      Review the report of the New Tigard Library Construction Committee (NTLCC) and provide direction.**

**Staff Responsible: Margaret Barnes**

Tasks:

1. Hear the report of the NTLCC regarding programming and potential sites for construction.
2. Provide direction on:
  - a. Size
  - b. Cost
  - c. Location
  - d. Funding
3. Determine when a bond measure for construction of a new library should be placed before the voters.

**July 2001 Update:**

The New Tigard Library Construction Committee met with the City Council on April 17, 2001 to present the findings of the "Needs Analysis Report for a new Tigard Library" and the "Building Program for the new Tigard Library." At this meeting the Council also reviewed a diagram illustrating the "space adjacencies" of the major service areas of the library. Also presented to the Council was the criteria developed by the Committee and BML Architects to evaluate preliminary sites. The Committee presented information to the Council on three potential sites. The Committee also recommended to the City Council that they acquire property and build a new library of 47,000 square feet, which would serve Tigard's service area for the next 15-20 years, based on population projections and foreseeable needs.

The Committee met with the Council again on June 19. At this meeting they presented to Council additional information on the potential sites. The Committee also presented information supporting the recommendation that the new library be a two-story structure. The preliminary estimated cost for this project is between \$14,000,000 and \$17,000,000.

When a bond measure for construction of a new library should be placed before the voters has not yet been determined. The Committee will next be presenting to the City Council on July 24, 2001.

April 2001

In early 2000 BML Architects and the consultant, Cynthia Ripley of Ripley Architects were retained by the City to do a three-part study for a new library. This study consisted of a needs analysis report, the development of a library building program to accommodate the services and a site analysis. The New Tigard Library Construction Committee has been meeting on a regular basis since November of 2000. The Committee, after accepting the "Needs Analysis" report, which was prepared by the consultant, has been working with BML Architects reviewing the "Building Program" report and analyzing potential possible sites. The Committee will be giving a preliminary presentation to Council on April 17, 2001. This presentation will include information concerning the approximate recommended size of a new facility, recommended programming, preliminary estimated costs for a new library, and a review of representative sites. When a bond measure for construction of a new library should be placed before the voters has not yet been determined.

## Goal 9      Develop a new City-wide sewer completion policy.

Staff Responsible: Gus Duenas

### Tasks:

1. Develop a City-wide sewer program which includes:
  - a. Cost alternatives and options;
  - b. A proposed construction sequence;
2. Take into consideration how to make the program equitable for those property owners who previously participated in the City  
s

### July 2001 Update:

The Engineering staff prepared a long-term program to extend sanitary sewer service to over 600 houses within the City that remain without service. The new program includes projects prioritized over a 5-year period and adds new incentives to encourage owners to promptly connect to the sewer system once the service becomes available. The goal of this program is to enhance the environment by allowing for the elimination of septic tanks and leaching fields over time. At its June 12, 2001 Council meeting, the Tigard City Council approved the \$5.8 million program and the enhanced incentive package proposed.

Until now, the formation of reimbursement districts has been at random and has been greatly dependent upon interest shown by the residents within these areas. The new program builds on the successes of the Neighborhood Sewer Extension Program but goes well beyond the original intent of that program. It uses the formation of reimbursement districts as the mechanism for the improvements, but establishes a project priority list spread over a 5-year period to systematically extend sanitary sewer service to developed but unserved areas Citywide.

The residential areas that remain without service have been divided into thirty-four project areas listed in priority order of construction. The projects have been further divided into five fiscal years for inclusion into the City's Capital Improvement Program (CIP). There will be annual review of the projects during the formulation process for each year's CIP. The City will use the following criteria to adjust the project schedule as part of the annual review of projects:

- Project areas where there is a known immediate need for sewer service
- Installation of sewers in streets that are programmed for construction
- Projects not requiring permits or easements and are without legal complications
- Lot owner interest in the program

To further encourage prompt connection to the City's sewer system, City Council enhanced the current incentive program as follows:

- The current incentive program caps the amount at \$8,000 up to a maximum of \$15,000 for those residents that connect within a year after the sewer is made available. The new incentive program lowers the amount an owner is required to pay for a share of the public sewer from \$8,000 to \$6,000.
- The one-year period under the current incentive program is extended to three years after sewer service becomes available. The lot owners can connect to the sewer anytime during that three-year period to take advantage of this reduced fee.
- Refunds will be sent to all that have paid the higher fee under the old Incentive Program so they will receive the same benefit as those in the new program. Owners under the old program that have sewer service available but have not connected to the sewer will also be given an additional two years to connect to the sewer and take advantage of the reduced fee.

A resolution incorporating the enhanced incentives is submitted for City Council approval at the July 10, 2001 business meeting.

April 2001

Engineering staff proposed to City Council the development of a Citywide Sewer Extension Program during the December 19, 2000 meeting. This program would include the recently annexed Walnut Island area and other unsewered areas throughout the City. Council provided direction to staff to proceed with development of a plan to extend sewers to unserved areas Citywide.

Engineering staff is in the process of drafting the Citywide Sewer Extension Plan. The plan will include a proposed sequence of implementation with list of prioritized projects and estimated costs for each of the projects. A package of incentives with cost implications will be packaged separately for Council consideration. The Plan is scheduled for presentation to Council in June 2001. If Council provides direction to proceed with the Plan, implementation will begin in FY 2001-02.

## Goal 10      Expand citizen involvement opportunities.

Staff Responsible: Liz Newton

### Tasks:

1. Focus on improved ways to inform the public.
2. Expand citizen involvement opportunities.
3. Make more effective use of media (Cityscape, cable television, City Web Page, press coverage, meetings, and public contact).
4. Strive toward a consistent public involvement effort.
5. Conduct a "City 101" education program for the public.

### July 2001 Update:

In the second quarter of 2001, media coverage continues to be tracked with volunteers compiling the articles for the monthly reports. The City continues to get excellent coverage in the Times. Of particular note is an increase in the coverage of Library programs.

Ten individuals are in the process of being trained to operate the cameras in the Town Hall. In June, the Planning Commission was trained on how to appear on camera and their meeting was taped for training purposes. Planning Commission meetings are scheduled to begin being taped to air in August or September.

CIT meetings continue to be a forum for providing educational and instructional programming. In May a water conservation feature was presented and in July right-of-way maintenance was the featured topic. The July CIT meeting was pre-taped for the first time and aired on the regular schedule. The 2001-2002 budget includes funding for a webmaster position that will facilitate expanding the City's use of the web as a communication tool.

Staff continues to prepare and distribute the Community Connector communication every other week. Efforts will be made in the coming months to add connectors to the program. To that end, the Community Connector program was featured in a display at the Balloon Festival and will be featured at the City's 40<sup>th</sup> Birthday celebration.



## April 2001

In the first quarter of 2001, citizen involvement efforts focused on tracking media coverage, recruiting and training volunteers to operate the Town Hall cameras, and developing a series of informational programs to be presented at CIT meetings.

In February staff began tracking media contacts. All but one of the weekly press releases issued were picked up. The purpose of tracking the press releases is to get a better sense of the type of stories the press is interested in covering.

Six volunteers took the initial training to operate the cable television cameras in Town Hall. Staff is now scheduling volunteers to work on cable casting meetings so that their skill level will continue to improve.

At the February CIT meeting, a 30-minute program on Land Use 101 was presented.

In the next quarter, staff will continue to track media coverage, and work toward expanding volunteer involvement in cable programming with plans to add coverage of the Planning Commission meetings. CIT meetings will continue to be a forum for providing educational and informational programming.

A new focus will be exploring the use of the Internet and City's web page as a citizen involvement tool, including recruiting for Community Connectors on the web page. With 70% of the Portland area connected to the Internet, it is increasingly important to involve citizens through the use of the Internet.

## Goal 11      Participate in the 2001 Oregon Legislative session.

**Staff Responsible: Bill Monahan**

### Tasks:

1. Provide input to discussions of the Oregon Legislature regarding retention of telecommunication franchise fees for local government.
2. Provide input to the Oregon Legislature as it addresses concerns raised by voter approval of Measure 7.

### July 2001 Update:

Council met in April with Senators Deckert and Representative Williams and again in June with Senator Deckert to hear updates on legislative activity of interest to the City of Tigard.

Staff continued to monitor legislative activity, responding when needed (and when notification was received before a vote on the matter was scheduled) to requests from our legislators or the League of Oregon Cities.

The City prepared a proclamation in support of the Commuter Rail project to assist Senator Deckert and Representative Williams as they asked their colleagues for approval and funding of this project.

Other issues monitored included franchise fee authority for local governments, transportation funding, and the "Measure 7" committee.

April 2001

Council met in December and February with Senator Ryan Deckert and Representative Max Williams. The Council gave input about telecommunication franchise issues and this discussion was followed up with information that was mailed to the legislators.

Council heard a report from Representative Williams who is the chair of a new committee formed to prepare a proposal to present a compromise to address Measure 7 through the legislative process.

The Council chose not to participate financially with the League of Oregon Cities' (LOC) lawsuit to challenge the constitutionality of Measure 7. The Council supports efforts by LOC to work with the legislature to develop an alternative to Measure 7, which leaves intact some of the elements of the Measure that the Council favors.

The Council was pleased to be invited to the legislative event, initiated by Representative Max Williams, honoring the late Mayor Jim Nicoli. The event was well attended and a fitting tribute to the contributions of Jim Nicoli.

**Definitions:**

- Goal**      A specific direction that Council is taking. Reaching the goal may not be achieved in one year.
- Task**      A specific activity taken in furtherance of the goal which can be achieved within a specific period of time.
- Issue**      Matters of concern to the Council or raised by citizens over which Council may or may not have direct control for policy setting or decision making, but the City can contribute.

AGENDA ITEM # \_\_\_\_\_  
FOR AGENDA OF July 24, 2001

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Consider Approval of Resolution Modifying the Council Groundrules

PREPARED BY: Cathy Wheatley DEPT HEAD OK \_\_\_\_\_ CITY MGR OK \_\_\_\_\_

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ISSUE BEFORE THE COUNCIL

Consider the proposed resolution modifying the Council Groundrules as discussed at the July 10, 2001, City Council meeting.

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STAFF RECOMMENDATION

Approve the proposed resolution.

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INFORMATION SUMMARY

The Council reviewed the City Council Groundrules at its July 10, 2001, meeting. Two changes were suggested by the City Council on Page 3, "STUDY SESSIONS" as follows:

Deleted language is shown by a ~~strike through~~ of language; added language shown by an underline of language.

- > STUDY SESSIONS: Study Sessions precede or follow a Business Meeting or Workshop Meeting. As stated above, they are conducted in a Workshop-type setting to provide an opportunity for Council to review the Business Meeting Agenda and to ask questions for clarification on issues or on process. Information is also shared on items that are time sensitive. During Study Sessions, any Council member may call for a Point of Order whenever he or she wishes to stop the "discussion" because he or she feels that it is more appropriate for the City Council to discuss the matter during the Council meeting. If a Point of Order is raised, the City Council will discuss the Point of Order and determine whether the "discussion" should continue on or be held during the Council meeting. The decision on whether to continue the "discussion" or not shall be determined by the majority ~~vote~~ consensus of the Council members present. If Council discusses a Council Agenda Topic in a Study Session prior to a that Council meeting, either the Presiding Officer or City Manager will briefly state at the introduction of the Agenda Topic, the fact that Council discussed the topic in the Study Session and mention the key points of the discussion.

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OTHER ALTERNATIVES CONSIDERED

Propose additional changes.

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VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

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ATTACHMENT LIST

Proposed resolution.

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FISCAL NOTES

N/A

CITY OF TIGARD, OREGON

RESOLUTION NO. 01-

A RESOLUTION REVISING THE POLICY OF THE CITY COUNCIL REGARDING COUNCIL  
GROUNDRULES AND AGENDA PROCESS (SUPERSEDING RESOLUTION NO. 00-52)

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WHEREAS, the Tigard City Council periodically reviews Council Groundrules; and

WHEREAS, the City Council, on July 10, 2001, directed that changes be made to "Exhibit A" of the City  
Council Groundrules and Agenda Process; and

WHEREAS, it is the desire of the City Council to make the changes discussed, which will supersede  
Resolution No. 00-52.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City Council hereby revises the Council Groundrules as described in Exhibit "A"  
attached.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_, 2001.

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Mayor, City of Tigard

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City Recorder - City of Tigard

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**EXHIBIT “A”**  
**Resolution No. 01-\_\_\_\_\_**

**CITY COUNCIL GROUNDRULES AND AGENDA PROCESS**

The following information is intended to assist with preparation for and the conduct of City Council meetings. The City Charter, Article IV, Section 13, contains regulations that govern Council meetings. The Groundrules describe the process followed by Council in scheduling and conducting meetings.

**Council/Mayor Roles**

- The Mayor, or in the absence of the Mayor, the Council President, shall be the Presiding Officer at all meetings. The Presiding Officer shall conduct all meetings, preserve order, enforce the rules of the Council and determine the order and length of discussion on any matter before the Council, subject to these rules. The Presiding Officer may move, second, debate and vote and shall not be deprived of any of the rights and privileges of a Councilor. The Presiding Officer shall sign all ordinances, resolutions, contracts and other documents, except where authority to sign certain contracts and other documents has been delegated to the City Manager and all documents shall be attested to by the City Recorder. The Mayor shall appoint the committees provided by the Rules of Council.
- In all other actions, decisions and other matters relating to the conduct of business of the City, the Mayor or President shall have no more or less authority than any other Council member. For the purposes of this written procedure any reference to the Council (unless otherwise specifically noted to the contrary) will include the Mayor, President and Council members.

**Conduct of City Meetings**

- Council will meet at least once a month. Regularly scheduled meetings shall be on the second, third, and fourth Tuesdays of each month.
- The Council meetings on the second and fourth Tuesdays are “Business” meetings; the Council meetings on the third Tuesday of the month are “Workshop” meetings unless otherwise designated by the City Council.
- Unless specifically noted otherwise, the meetings of Council shall begin at 6:30 p.m. at the established place of meeting. On the second and fourth Tuesdays the meetings will begin with a Study Session following by the Business meeting. On the third Tuesday, the Workshop meeting will begin at 6:30 p.m.
- Roll Call/Voting Order: The roll shall be called in alphabetical order by last name. At each succeeding meeting at which a roll call vote is taken, the council person who voted last during the previous meeting, shall vote first and the Council person who



voted first during the preceding meeting shall vote second and so on in a rotating fashion. It is the intent that the voting order remain fixed for each meeting and that a different Council person shall vote last during each separate meeting for the duration of the meeting.

- Charter Section 19 provides that 'the concurrence of a majority of the members of the Council present and voting, when a quorum of the Council is present, at a Council meeting shall be necessary to decide any question before the Council.' A Council member who abstains or passes shall be considered present for determining whether a quorum exists, but shall not be counted as voting. Therefore, abstentions and 'passes' shall not be counted in the total vote and only votes in favor of or against a measure shall be counted in determining whether a measure receives a majority.
- The Chair, or other members if the Chair fails to remember, shall call for a Point of Order at or around 9:30 p.m. to review remaining items on the agenda with the Council. The Council may reset or reschedule those items, which it feels may not be reached prior to the regular time of adjournment.
- The Council's goal is to adjourn prior to 10 p. m. unless extended by majority consent of all Council members then present. If not continued by majority consent, then the meeting shall be adjourned to either the next scheduled meeting or the meeting shall be continued to a special meeting on another date.
- Definitions - Meeting Types, Study Sessions and Executive Sessions:
  - > **BUSINESS MEETINGS:** Business meetings are regular meetings where Council may deliberate toward a final decision on an agenda item including consideration of ordinances, resolutions & conducting public hearings. Business meetings are open to the public. The regularly scheduled business meetings are televised.

Business meetings are generally scheduled to begin at 7:30 p.m. with a study session preceding the Business Meeting at 6:30 p.m. Study Sessions are a workshop-type of meeting (see definition below) which also provide an opportunity for the Council to review the business meeting agenda and to ask questions for clarification on issues or on process. Study Sessions are open to the public.

All Council meetings are open to the public with the exception of Executive Sessions. Executive Sessions can be called under certain circumstances and topics are limited to those defined by ORS 192.660.

- The "Visitor's Agenda" is a regular feature on the Council Business meetings. This item will be placed near the beginning of the Council Agenda to give citizens and visitors a chance to introduce a topic to the City Council. Council may decide to refer an issue to staff and/or schedule the topic for a later Council meeting.

- > **WORKSHOP MEETING:** Workshop meetings are regular meetings where Council reviews and discusses agenda topics with no intent of deliberating toward a final decision during the meeting. Workshop meetings are not currently scheduled to be televised but are open to the public.

Workshop agenda items are generally topics which Council is receiving preliminary information on and providing direction for further staff analysis and information gathering for a later business meeting. Workshop topics may also include discussions with standing boards and committees, as well as other governmental units.

Appropriate topics for Workshop meetings include:

- ~ Introduce a Topic: Staff will bring up new items to determine whether Council wants to entertain further discussion and whether to schedule the topic as an item on a future agenda.
- ~ Educational Meetings: Council will review research information presented by staff, consultants, or task forces - usually as a process check; i.e., is the issue on the right "track"?
- ~ Meet with individuals from City boards and committees or other jurisdictions to discuss items of common interest (examples: other Councils, the School District, and other officials).
- ~ Administrative Updates: Items such as calendar information, scheduling preferences, process checks.

- > **STUDY SESSIONS:** Study Sessions precede or follow a Business Meeting or Workshop Meeting. As stated above, they are conducted in a Workshop-type setting to provide an opportunity for Council to review the Business Meeting Agenda and to ask questions for clarification on issues or on process. Information is also shared on items that are time sensitive. During Study Sessions, any Council member may call for a Point of Order whenever he or she wishes to stop the "discussion" because he or she feels that it is more appropriate for the City Council to discuss the matter during the Council meeting. If a Point of Order is raised, the City Council will discuss the Point of Order and determine whether the "discussion" should continue on or be held during the Council meeting. The decision on whether to continue the "discussion" or not shall be determined by the majority consensus of the Council members present. If Council discusses a Council Agenda Topic in a Study Session prior to that Council meeting, either the Presiding Officer or City Manager will briefly state at the introduction of the Agenda Topic, the fact that Council discussed the topic in the Study Session and mention the key points of the discussion.

- > **EXECUTIVE SESSIONS:** Meetings conducted by the Council, City Manager, and appropriate staff for deliberation on certain matters in a setting closed to the public. Executive Sessions may be held during a regular, special or emergency meeting after the Presiding Officer has identified the ORS authorization for holding the Executive Session. Among the permitted topics are employment of a public officer,

deliberations with the persons designated by the Council to carry on labor negotiations, deliberations with persons designated to negotiate real property transactions, and to consult with legal counsel regarding current litigation or litigation likely to be filed.

#### Policy Regarding Interrelationships Between the City Council and Its Appointed Commissions, Boards or Committees (hereinafter referred to as "Boards")

- The Council shall follow the Procedure for Recruitment and Appointments to Boards and Committees established in Resolution No. 95-60.
- Appointments to any committees not covered by Resolution No. 95-60 shall be made following the procedure provided within the Resolution or Ordinance, which created the committee.
- Appointments to intergovernmental committees shall be made by Council Action.
- Appointments of Council members to internal City committees as the Council Liaison shall be made by the City Council.
- It is Council policy to make known to the public, by notice in the Cityscape, of the occurrence of vacancies on City boards for the purpose of informing persons who may be interested in appointment.
- Council will entertain regular representation by persons outside the City on those boards, which provide for such non-city membership.
- The Mayor and one Council member will serve on the Mayor's Appointment Advisory Committee for the purpose of interviewing and recommending potential board members. Council members will serve on this Committee with the Mayor on a rotated basis for a term of six months. Terms shall begin January 1 and July 1.

#### Communications Between City Councilors, City Manager and Staff

- Councilors are encouraged to maintain open communications with the City Manager, both as a group and individually in one-on-one sessions.
- Councilors are encouraged to direct inquiries through the City Manager, giving as much information as possible to ensure a thorough response.
- In the absence of the City Manager, Councilors are encouraged to contact the Assistant to the City Manager. In the absence of both the City Manager and the Assistant to the City Manager, Councilors are encouraged to contact the Department Head, realizing that the Department Head will discuss any such inquiries with the City Manager.
- Contacts below the Department Head are discouraged due to the possible disruption of work, confusion on priorities, and limited scope of response.

### Council Agendas and Packet Information

- The City Manager will schedule agenda items while attempting to maintain balanced agendas to allow for discussion of topics while meeting the established 10 p.m. adjournment time.
- The City Manager will schedule items allowing time for staff research and the agenda cycle deadlines.
- The agenda cycle calls for submittal of items 10 days in advance of a Council meeting. Add-ons are to be minimized, as well as handouts distributed at the start of meetings, except Executive Sessions.
- Councilors and staff will prepare in advance of public meetings and issues should be presented fully in packets.
- Council is supportive of the role staff should play in offering professional recommendations. Staff is aware of Council's right to make final decisions after considering the staff recommendation, public input, the record and Council deliberation on the matter.

### Communications Among Councilors

- Councilors are encouraged to suggest agenda topics at the bench or to contact the City Manager about scheduling an item into the Tentative Agenda.
- Add-on Agenda items should be brought up at the start of the meeting and generally considered only if continuing to a later agenda is not appropriate.
- Requests for legislative action of Council may be initiated by an individual Council member during a Council meeting. The City Manager will respond to the request consistent with resources and priorities, or refer the question of scheduling to Council as a whole.

### Communications with Community/General Public

- Councilors and the General Public are reminded of the Agenda cycle and cut-off dates. Administrative staff is available to explain how public issues are handled and how citizen input may be accomplished.
- "Official" communication should come through City Hall and be provided by the City Manager. Direct submittal or inquiries to the Council or individual Councilors should be referred to the City Manager or Councilors may ask the City Manager to look into an issue.
- Official "press releases" are encouraged, both to assure accurate reporting and to advise Council and Staff of the official position communicated to the press. Press releases are through the City Manager's Office.

## General

- Councilors are always Councilors in the eyes of the Administration, never simply private citizens. Thus, Councilors are always treated by Administration as Council members.
- Information that “affects” the Council should go to Council. The City Manager is to decide on “gray areas,” but too much information is preferable to too little.
- Budget cuts or increases are policy decisions. Budgets will not be cut “piece meal” or “across the board,” but rather should be made in service or program areas, giving staff full opportunity to provide data clearly defining the anticipated impact of the action.
- It is the policy of the Council that if Councilors are contacted regarding labor relations during labor negotiations or conflict resolution proceedings, then Councilors have no comment.
- Councilors and the City Manager agree to report and discuss any contact, which might affect labor relations with the entire Council in Executive Session.
- The Council Groundrules will be submitted for review by Council each year either in the July or August Workshop Meeting. The Groundrules can be reviewed and revised at any other time in the year when a specific issue or issues are identified requiring action prior to the established review period.

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AGENDA ITEM # 3.4  
FOR AGENDA OF July 24, 2001

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE A RESOLUTION APPROVING BUDGET AMENDMENT #2 TO THE FY 2001-02 BUDGET TO TRANSFER \$29,376 FROM THE WATER QUALITY/QUANTITY FUND CONTINGENCY TO THE CAPITAL IMPROVEMENTS PROGRAM FOR FUNDING OF THE HEALTHY STREAMS PLAN AGREEMENT WITH CLEAN WATER SERVICES (FORMERLY UNIFIED SEWERAGE AGENCY)

PREPARED BY: Tom Imdieke DEPT HEAD OK \_\_\_\_\_ CITY MGR OK \_\_\_\_\_

ISSUE BEFORE THE COUNCIL

A budget amendment is required to transfer appropriations from the Water Quality/Quantity Fund contingency to the Capital Improvements program to fund an agreement with Clean Water Services approved by the Council on April 10 for participation in the Healthy Streams Plan.

STAFF RECOMMENDATION

Approve the resolution so that sufficient appropriations exist within the Capital Improvements program to make the required payment to Clean Water Services.

INFORMATION SUMMARY

At its March 13, 2001 meeting, Council received a report from Clean Water Services on the method used to determine the portion of the cost of the Healthy Streams Plan assigned to the City. The Healthy Streams Plan is intended to provide Clean Water Services and its member jurisdictions, including the City, with the means to cooperatively respond to the requirements of the Clean Water Act and the Endangered Species Act. is also designed. At that time, Council directed staff to prepare an Intergovernmental Agreement outlining the program as presented.

On April 10, Council approved the Intergovernmental Agreement with Clean Water Services.

This request is to establish the required appropriation so that the City can pay Clean Water Services for the City's portion of the plan.

OTHER ALTERNATIVES CONSIDERED

None. The City is required by the terms of the Intergovernmental Agreement to share in the funding of the Healthy Streams Plan.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

Resolution

FISCAL NOTES

\$29,376 - Water Quality/Quantity Fund

CITY OF TIGARD, OREGON

RESOLUTION NO. 01-

A RESOLUTION APPROVING BUDGET AMENDMENT #2 TO THE FY 2001-02 BUDGET TO TRANSFER \$29,376 FROM THE WATER QUALITY/QUANTITY FUND CONTINGENCY TO THE CAPITAL IMPROVEMENTS PROGRAM FOR FUNDING OF THE HEALTHY STREAMS PLAN AGREEMENT WITH CLEAN WATER SERVICES (FORMERLY UNIFIED SEWERAGE AGENCY)

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WHEREAS, the Tigard City Council approved an Intergovernmental Agreement with Clean Water Services funding a portion of the Healthy Streams Plan;

WHEREAS, the FY 2001-02 Adopted Budget did not include appropriations for funding of the plan;

WHEREAS, the adopted budget needs to be amended to appropriate funds to allow payment of the City's portion of the plan.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The FY 2001-02 Adopted Budget of the City of Tigard is hereby amended as shown in Attachment A to this resolution.

PASSED: This \_\_\_\_ day of \_\_\_\_ 2001.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

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RESOLUTION NO. 01-\_\_

Attachment A  
FY 2001-02  
Budget Amendment # 2

FY 2001-02 Budget	Budget Amendment # 2	FY 2001-02 Revised Budget
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**Water Quality/Quantity Fund**

Resources

Beginning Fund Balance	1,149,297	0	1,149,297
Property Taxes	0	0	0
Grants	0	0	0
Interagency Revenues	0	0	0
Development Fees & Charges	0	0	0
Utility Fees and Charges	96,400	0	96,400
Miscellaneous Fees and Charges	0	0	0
Fines and Forfeitures	0	0	0
Franchise Fees and Business Tax	0	0	0
Interest Earnings	60,500	0	60,500
Bond Proceeds/Principal	0	0	0
Other Revenues	0	0	0
Transfers In from Other Funds	0	0	0
<b>Total</b>	<b>\$1,306,197</b>	<b>\$0</b>	<b>\$1,306,197</b>

Requirements

Community Service Program	0		0
Public Works Program	0		0
Development Services Program	0		0
Policy & Administration Program	0		0
General Government	0		0
Program Expenditures Total	\$0	\$0	\$0
Debt Service	\$0		\$0
Capital Improvements	\$403,500	\$29,376	\$432,876
Transfers to Other Funds	\$1,156		\$1,156
Contingency	\$53,000	(\$29,376)	\$23,624
<b>Total Requirements</b>	<b>\$457,656</b>	<b>\$0</b>	<b>\$457,656</b>
Ending Fund Balance	<b>848,541</b>		848,541
<b>Grand Total</b>	<b>\$1,306,197</b>	<b>\$0</b>	<b>\$1,306,197</b>



AGENDA ITEM # \_\_\_\_\_  
FOR AGENDA OF July 24, 2001

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A SETTLEMENT AGREEMENT WITH QWEST

PREPARED BY: Craig Prosser DEPT HEAD OK \_\_\_\_\_ CITY MGR OK \_\_\_\_\_  
ISSUE BEFORE THE COUNCIL

Should the City of Tigard enter into a settlement agreement with Qwest regarding excess franchise fees paid?

STAFF RECOMMENDATION

Approve a settlement agreement.

INFORMATION SUMMARY

On September 9, 1999 Qwest (formerly US West) and the Oregon Public Utility Commission (PUC) entered into an agreement requiring Qwest to issue refunds to its customers for overcharges on their bills. The PUC formally approved this agreement on April 14, 2000.

Qwest is franchised to provide telephone services within the City of Tigard and pays a franchise fee equal to 5% of its gross revenues from local access services generated within the City of Tigard. Because of these overcharges, Qwest's gross revenues were overstated, leading to an overpayment of franchise fees.

Qwest has requested a refund of excess franchise fees paid to all cities within its service area. The League of Oregon Cities negotiated a standard settlement agreement for all cities (except the City of Portland, which negotiated its own agreement). The agreement calls for a refund of \$14,363 from the City of Tigard, plus interest calculated from May 15, 2001. If Tigard signs the agreement and makes payment in full before July 30, 2001 Qwest will waive accumulated interest charges.

OTHER ALTERNATIVES CONSIDERED

Do not approve the resolution. If Tigard does not sign the settlement agreement and make payment to Qwest by July 30, 2001, Qwest has indicated that it will deduct excess payments of \$14,363 plus interest from future franchise fee payments.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

NA

ATTACHMENT LIST

Resolution

FISCAL NOTES

The agreement calls for a one-time payment of \$14,363 to Qwest.

**Qwest**  
421 Southwest Oak Street  
Suite 880C  
Portland, Oregon 97204  
Phone 503-242-5508  
FAX 503-242-8589  
e-mail: gpeden@qwest.com



**Greg Peden**  
Director  
Policy and Law

June 20, 2001

Mayor Jim Giffith  
City of Tigard  
13125 SW Hall Blvd.  
Tigard, OR 97223

RECEIVED C.O.T.

JUL 16 2001

Administration

**Re: Refund of Franchise Fees to Qwest**

Dear Mayor Giffith:

This letter will confirm the terms of the agreement under which the City of Tigard (the "City") has agreed to refund franchise fees to Qwest.

**I. Background**

On September 9, 1999, representatives from U S WEST, now Qwest, and Staff of the Oregon Public Utility Commission signed an agreement that required Qwest to issue refunds to its customers in a stipulated amount (the "customer refund"). The Commission approved the stipulation on April 14, 2000. PUC Order No. 00-190.

During the time period subject to the customer refund, Qwest paid franchise fees to the City. Qwest implemented the customer refund on its billings sent to customers on or about September 22, 2000, and has also made refunds to former customers. The customer refunds included a return by Qwest of franchise fees previously paid to the City as part of and in addition to the customer refund ordered by the PUC.

Qwest representatives began contacting cities in March 2000 to notify them of the proposed settlement and to begin discussions of how to address the refund for prior license fee and/or franchise fee payments to the cities. The cities disagreed with Qwest regarding the nature of the customer refund and how much of it was attributable to local exchange revenues or to other services. These discussions continued through April 2001, at which time Qwest and the City agreed upon the following terms.

**II. Agreement**

**A. Calculation of the Refund Amount**

The City and Qwest agree that the City shall refund franchise fees to Qwest, arising from the Commission-ordered customer refund, in the dollar amount of \$14,362.10 (the "refund amount").

**B. Time of Payments**

The City will pay the amount of \$14,362.10 on or before July 30, 2001. Checks should be made out to "Qwest Corporation" and payments should be mailed to:

Bob Barton  
Qwest Corporation  
6300 Syracuse Way  
Englewood, CO 80111-6748

2. If the City does not submit payment to Qwest for the refund amount by the close of business at 5:00 p.m. on July 30, 2001, Qwest may recover the refund amount as a credit against franchise fee payments due to City on or after July 30, 2001. Should any credit balance remain, Qwest may calculate and offset its franchise fee payments in a similar manner for the following period(s) until the City's refund is complete or by any other means.

**D. Reservation of Rights**

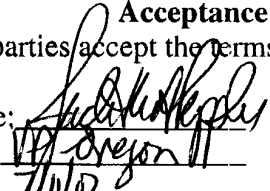
Both parties expressly reserve any claims that may exist for indemnification, pending any third-party claims for liability or additional refund amounts. By entering this Agreement, City and Qwest do not waive any rights they have under any franchise agreement, ordinance, code provision, or other law to the extent that is consistent with the terms of this Agreement.

Sincerely,



**III Acceptance**

The parties accept the terms stated above through the duly authorized signatures below.

Name:   
Title: VP Oregon II  
Date: 7/11/02  
Qwest Corporation

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
City of Tigard

AGENDA ITEM # 3.6 a.  
FOR AGENDA OF July 24, 2001

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE A Resolution authorizing the City Manager to sign a contract with Spencer & Kupper for consultant services for the Washington Square Regional Center Implementation Plan

PREPARED BY: Beth St. Amand DEPT HEAD OK \_\_\_\_\_ CITY MGR OK \_\_\_\_\_

ISSUE BEFORE THE COUNCIL

Shall Council adopt a resolution authorizing the City Manager to sign a contract with Spencer & Kupper for consultant services for the Washington Square Regional Center Implementation Plan?

STAFF RECOMMENDATION

Adopt the resolution authorizing the City Manager to sign a contract with Spencer & Kupper for consultant services for the Washington Square Regional Center Implementation Plan.

INFORMATION SUMMARY

Council approved the Washington Square Regional Center Plan on February 8, 2000, and voted to delay implementation of the plan until issues related to parks and open space, natural resources, transportation and stormwater were addressed. In June 2000, the City requested proposals from qualified applicants to prepare an implementation plan and public involvement plan for the Washington Square Regional Center Master Plan. The consultant team of Spencer & Kupper was the sole bidder on the project. At its September 19, 2000, workshop meeting, Council directed staff to proceed with the scope of work and public involvement plan for the implementation of the Washington Square Regional Center Plan. On October 25, 2000, Spencer & Kupper signed a contract to prepare an implementation plan and public involvement plan for the Washington Square Regional Center Master Plan for the sum of \$111,203. This contract was to be sent back to Council with a resolution; however, due to an oversight by staff, the contract was submitted to the City Manager without the resolution having been submitted to Council. To date, Spencer & Kupper has been paid a total of \$100,754 on this contract. Adopting the resolution recognizes that the City Manager signed the contract with Spencer & Kupper in order to complete the scope of work and public involvement plan for implementation of the Washington Square Regional Center Plan.

OTHER ALTERNATIVES CONSIDERED

Not applicable.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

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ATTACHMENT LIST

Attachment 1: Resolution

Attachment 2: Minutes from 9/19/00 City Council workshop meeting

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FISCAL NOTES

Last fiscal year, the City had approximately \$115,000 available for the consultant's portion of the project. By the end of June, 2001, \$100,754 had been paid. The approved budget for 2001/2002 allocates \$25,000 for consultant services to provide follow-up and implementation of the Washington Square Regional Center Plan.

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CITY OF TIGARD, OREGON

RESOLUTION NO. 01-\_\_\_\_\_

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH SPENCER & KUPPER FOR CONSULTANT SERVICES FOR THE WASHINGTON SQUARE REGIONAL CENTER IMPLEMENTATION PLAN

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WHEREAS, the Tigard City Council approved the Washington Square Regional Center Plan on February 8, 2000, and;

WHEREAS, Council voted to delay implementation of the plan until issues related to parks and open space, natural resources, transportation, and stormwater are addressed, and;

WHEREAS, the City, in June 2000, requested proposals from qualified applicants to prepare an implementation plan and public involvement plan for the Washington Square Regional Center Master Plan, and;

WHEREAS, the consultant team of Spencer & Kupper was the sole bidder on the project, and;

WHEREAS, City Council, at the September 19, 2000, workshop meeting, directed staff to proceed with the scope of work and public involvement plan for the implementation of the Washington Square Regional Center Plan,

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that: The City Manager is authorized to sign a contract in the amount of \$111,203 with Spencer & Kupper for consultant services for the Washington Square Regional Center Implementation Plan.

EFFECTIVE DATE: July 24, 2001

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2001.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

RESOLUTION NO. 01-\_\_\_\_

TIGARD CITY COUNCIL  
WORKSHOP MEETING  
MEETING MINUTES – SEPTEMBER 19, 2000

1. WORKSHOP MEETING

- Call to Order: Mayor Griffith called the meeting to order at 6:33 p.m.
- Council Present: Council President Moore; Councilors Hunt, Patton and Scheckla
- Staff Present: City Attorney Chuck Corrigan, City Engineer Gus Duenas, Deputy City Recorder Greer Gaston, Police Chief Ron Goodpaster, Community Development Director Jim Hendryx, Planning Manager Nadine Smith, Assistant to the City Manager Liz Newton, Public Works Director Ed Wegner
- Council Communications & Liaison Reports: None
- Call to Staff and Council for Non Agenda Items: None

2. At 6:35 p.m. Tigard City Council went into Executive Session under the provisions of ORS 192.660 (1) (d), (e), (f) & (h) to discuss labor relations, real property transactions, exempt public records, and current and pending litigation issues.

Executive Session Adjourned at 6:45 p.m.

3. CONVENE AS LOCAL CONTRACT REVIEW BOARD TO DETERMINE WHETHER ANDERSEN CONTRACTORS, INC. SUBMITTED A RESPONSIVE BID FOR THE CONSTRUCTION OF WETLAND MITIGATION

Staff Report and Discussion: City Engineer Gus Duenas explained that companies which bid on construction projects are required to submit a State pre-qualification statement. Andersen Contractors, Inc., the low bidder on a wetland mitigation project, did not submit the pre-qualification statement. Instead, it stated "Submitted previously" on its bid sheet. Andersen Contractors, Inc. was currently working on another City project and their pre-qualification statement was on file.

City Attorney Chuck Corrigan said that the Council had the authority to rule whether Andersen Contractors, Inc. had submitted a responsive bid. He continued by saying that the oversight did not constitute a material defect in the bid; it was a technicality.

**Council Decision:** Council decided that Anderson Contractors, Inc. had submitted a responsive bid for the construction of the wetland mitigation project.

#### 4. CITIZEN INVOLVEMENT TEAM (CIT) DISCUSSION

**Staff Report and Discussion:** Assistant to the City Manager Liz Newton, CIT Facilitators Basil Christopher and Bev Froude, and CIT Staff Coordinator John Roy gave Council an update on the CIT. Ms. Newton informed Council of a trial change in microphones which may improve the sound quality of televised meetings. In response to a question from Councilor Scheckla, Ms. Newton stated that there wasn't an additional charge to test the alternative equipment.

Discussion ensued regarding the one-on-one sessions with staff offered at CIT meetings, and the popularity of such sessions. Ms. Froude stated that the sessions were not being used as much as they could be, and proposed that every department need not be present at every meeting. Councilor Hunt expressed concern about the use of staff resources when CIT members may not have any questions of them. Ms. Newton explained that the Police Department representative has been popular. Other departments, such as Finance, do not attend meetings, since CIT members have had few finance-related concerns. Mr. Christopher stated that he liked these informal sessions, and that the sessions may encourage citizens to attend the meetings. It was also discussed that citizens can submit questions in advance of the meeting, or get questions answered directly from staff and bypass the CIT meeting altogether. Ms. Newton stated that she could poll the CIT members to get their feeling on the matter.

Councilor Moore suggested having the Council meet with CIT members on a regular basis. This would provide citizens with another opportunity to talk with Council. Councilor Patton supported the suggestion as long as citizens understood that the Council may not have immediate responses to their questions and concerns. Mr. Roy stated that this would be a good place for Council to give citizens the "big picture."

Ms. Newton updated Council on the cost of televising meetings. The use of the in-house equipment is \$100, as compared to \$310 when the Tualatin Valley Community Access (TVCA) truck was utilized. The cost will decrease further when Network Services staff completes training on the equipment, and then trains volunteers.



Ms. Newton commented that attendance at CIT meetings has been about 20 members per meeting, an improvement over previous summers. She also stated that since the meeting is televised, there are additional people watching the meeting from home.

Ms. Froude proposed offering a class called Tigard Government 101. The class would educate citizens on how local government works and how they can get involved. She suggested offering the class as part of the CIT process so that it could be televised and rebroadcast. Councilor Moore strongly supported Ms. Froude's suggestion. Councilor Patton stated that the video of the class could be shared with community organizations. Mayor Griffith expressed his support for the idea.

Ms. Newton stated that she thought the City could take better advantage of television coverage by using crawl messages and posting information during the break. She also stated that role of the facilitator seems to be working smoothly. Ms. Newton concluded that she would talk with CIT members and explore various options for responding to questions and concerns, while trying to further reduce the demand on staff.

## 5. BRIEFING ON NON-FINANCIAL STATEWIDE BALLOT MEASURES

Staff Report: Police Chief Ron Goodpaster and Assistant to the City Manager Liz Newton briefed Council on upcoming non-financial ballot measures.

### ♦ Ballot Measure 3 – Conviction before Property Forfeiture

Chief Goodpaster explained that this measure amends the Constitution and would make the following changes to current procedures.

- a. Changes by tying the seizure and forfeiture of property to a conviction. Currently the two processes are separate. Property can be seized (with probable cause) and forfeiture occurs through a civil process prior to a criminal court conviction. This measure would require a conviction before property could be seized, and would give alleged criminals time to hide or dispose of items which may, under current law, be subject to seizure.
- b. Changes how proceeds from property forfeiture may be used. Currently, monies obtained through the forfeiture process are used to fund:
  - Drug treatment programs
  - Drug prevention education
  - Crime prevention
  - Investigation of crime

- Purchase of police equipment

This amendment would restrict the use of forfeiture monies solely to drug treatment programs.

- c. Changes by capping administrative costs at 25 percent. Currently there is no cap on administrative costs. Administrative costs include such items as Storage fees (for seized vehicles), attorney costs, court processing and appearances.

- ♦ Ballot Measure 7 – Compensation if Government Regulation Reduces Property Value

Ms. Newton explained that this measure amends the Constitution and would require local municipalities to reimburse property owners whose property value was reduced as a result of a government regulation. The measure does not apply to federal regulations or nuisance laws. In response to questions from Council, Ms. Newton explained that this measure could make the local municipalities financially responsible for reduced property values resulting from State regulations. The estimated cost of the measure is \$3.8 billion.

- ♦ Ballot Measure 87 – Regulation of Sexually-Oriented Businesses through Zoning

Ms. Newton explained that this measure would bring the Oregon Constitution more in line with the federal Constitution. The amendment changes the Oregon Constitution to allow regulation of sexually-oriented businesses through content. Councilor Patton pointed out that the measure was referred by the State Legislature.

## 6. DISCUSSION OF THE PROCEDURE FOR APPOINTMENTS TO BOARDS AND COMMITTEES AND CONSIDER PROPOSED REVISIONS

Staff Report and Discussion: This change was proposed by City Manager Monahan. Assistant to the City Manager Liz Newton discussed the proposed revision of increasing the role of the staff liaison by having him/her assist in the selection of interviewees, and participate in the interview process. Since the staff liaison is aware of the committee's/board's issues, and existing member composition, his/her participation may offer additional insight into the committee's/board's membership needs.

Councilor Scheckla commented that the current process seems to work well and he didn't support the change. He indicated that he likes to interview all candidates that apply for a vacancy.

Mayor Griffith suggested that the staff liaison might serve as an advisory resource. Councilor Patton said that although it may be fitting for the staff liaison to "sit in" on the interview, she didn't think it appropriate for him/her to ask questions of the candidates. Ms. Newton stated the Council's direction would be reflected in the upcoming revisions.

7. BRIEFING ON THE SCOPE OF WORK AND PUBLIC INVOLVEMENT PLAN FOR IMPLEMENTATION OF WASHINGTON SQUARE REGIONAL CENTER PLAN

Staff Report and Discussion: Community Development Director Jim Hendryx reminded Council of the last action taken on the Washington Square Regional Center Plan where Council adopted the Plan with delayed implementation. John Spencer of Spencer and Kupper and Kirsten Greene of Cogan Owens Cogan also attended. With regard to the scope of work and citizen involvement plan request for proposal, Planning Manager Nadine Smith stated that the firm of Spencer and Kupper was the sole bidder on the project. Mr. Hendryx stated that since this is the second phase of a complex project, it would be difficult for firms other than those that have already worked on the project to "step in" at this point. The actual work will be a collaborative effort between Spencer and Kupper, Cogan Owens Cogan, a wetland firm, and other consultants.

Ms. Smith stated that Cogan Owens Cogan prepared the public involvement plan and has suggested reconvening the previous task force to work on this phase of the project. The new task force will focus on the details of implementation such as transportation, wetlands, etc. Along with previous task force members, the task force will add consultants to provide expertise on specific areas of the implementation. Public events and opportunities for community involvement and input will be included in the process.

In response to a question from Councilor Scheckla, Mr. Hendryx discussed the funding for the project. The City has allocated \$115,000 and Oregon Department of Transportation is adding an additional \$80,000.

Mayor Griffith inquired how the proposed commuter rail line, now turned over to the County, is affected by the Plan. Ms. Smith stated that commuter rail funding was not included in the project. Councilor Patton explained that the Plan and commuter rail are linked. Mayor Griffith emphasized that the Washington Square implementation must coordinate its efforts with commuter rail.

Mr. Hendryx stated that when the City undertakes a planning effort such as this, the Council's direction and support is needed. He stated that he wanted Council to be comfortable with this approach and the citizen involvement opportunities that will be offered. Councilor Patton was in favor of enlisting previous task force members as well as new members. She stressed technical experts and progressive science and information were essential to the successful implementation of the Plan.

In response to a question from Councilor Scheckla, Mr. Hendryx and Ms. Smith stated that neither Tri-Met nor Metro had committed funds to the project.

John Spencer reiterated that Spencer and Kupper had maintained the same core team that had worked on phase one of the project. The Kittleson firm will handle overall transportation. Cogan Owens Cogan will be responsible for public involvement. Three firms have been added to the collaborative effort of phase two: BRW, Mason, Bruce and Gerrard, and Kadama.

Kirsten Greene briefly described Cogan Owens Cogan's plans for public involvement. Councilor Scheckla suggested that some of the task force meetings should be held in the evening.

**Council Direction:** Mayor Griffith sought final input and consensus from the Council. The Council directed staff to proceed with the scope of work and public involvement plan for the implementation of the Washington Square Regional Center Plan.

**8. BRIEFING ON ALLOWING THE TEMPORARY USE OF AN AREA ON CITY PROPERTY AS A DOG OFF-LEASH AREA**

**Staff Report and Discussion:** Property Manager John Roy and Public Works Director Ed Wegner updated Council on the dog off-leash issue. Mr. Roy described the progress he and the newly-created task force have made toward the establishment of a temporary and permanent dog off-leash park or parks. Topics covered in Mr. Roy's presentation included:

- ◆ Siting criteria
- ◆ Necessary and desirable dog-park components
- ◆ Potential temporary sites
- ◆ Potential permanent sites
- ◆ Other sites to be considered
- ◆ Staff recommendation

A copy of Mr. Roy's PowerPoint presentation is available at the City Recorder's office.

Task force members Aileen Cord, Jim Garbarino, Larry Gallizzio, Jeff Miller and Christie Smith entered into a discussion with Council. Ms. Smith had gathered information from other cities with dog parks and described their experiences. Mr. Gallizzio said that other dog parks had few liability issues and that the parks helped to promote a sense of community and responsible dog ownership.

Mayor Griffith asked how dog parks were funded in other cities. Ms. Smith said funding was typically through the parks department, but in Tigard's situation, the task force was considering many funding sources. Mr. Roy said that the task force was considering issuing special use permits whereby the City could charge non-city residents a higher fee for dog park usage.

Councilor Moore inquired about the City's liability. Mr. Roy explained that if dog parks are fenced, liability rests with the pet guardian. Without fencing, the City could be held liable. Councilor Moore asked who would be responsible for pet waste clean-up if dog park users were not. Mr. Wegner indicated that park staff would be responsible. Mr. Roy stated that the task force had discussed the option of creating volunteer groups that would perform dog park clean-up. Councilor Moore supported the use of volunteers and stated that he would have reservations about the use of park staff and resources for pet waste clean-up. Councilor Moore confirmed that fencing of dog park areas could come from the parks budget or from donations. Mr. Roy pointed out that the task force was requesting Council to authorize up to \$5,000 as "seed money" for initial dog park start-up funding. Councilor Patton concurred with Councilor Moore's concern about City liability and emphasized that the site must be fenced. Councilor Hunt stated that people have their dogs off-leash whether or not it's permitted. He supported the use of "underutilized" areas as potential dog park sites.

Mr. Wegner identified the following staff recommendations:

- ◆ Approve the use of the Ash Avenue area as a temporary dog park.
- ◆ Apply for a Conditional Use Permit (CUP) for the creation of a dog park at the 125<sup>th</sup> and Bull Mountain Road site. This will require a public hearing and will also need to go before the Intergovernmental Water Board.
- ◆ Continue to work with the citizen task force for the siting of a permanent dog park or parks.
- ◆ Start-up funding not-to-exceed \$5,000 from the parks department budget.

Council Decision: Councilor Hunt moved to accept the above staff recommendations. Councilor Moore seconded the motion. Mayor Griffith asked if all Council members

were in favor of the staff recommendations. Council members indicated that they were in favor. The direction to support the staff recommendations was unanimous.

## 9. DISCUSSION OF AFFORDABLE HOUSING STRATEGIES

Staff Report and Discussion: Community Development Director Jim Hendryx gave a presentation on the "Top Ten Affordable Housing Strategies." Topics covered in Mr. Hendryx's presentation included:

- ◆ Density Bonus
- ◆ Transfer of Development Rights
- ◆ System Development Charges
- ◆ Permit Fees
- ◆ Property Tax Exemption
- ◆ Land Cost and Availability
- ◆ Local Regulatory Constraints and Discrepancies in Planning and Zoning Codes/Local Permitting or Approval Process
- ◆ Parking
- ◆ Enterprise Foundation Regional Acquisition Fund
- ◆ Real Estate Transfer Tax

A copy of Mr. Hendryx's PowerPoint presentation is available at the City Recorder's office.

Councilor Scheckla asked how quickly the Council needed to act on the recommendations to promote affordable housing. Mr. Hendryx responded that Finance Director Craig Prosser suggested that the Council wait until the November election results were available, since some of the issues on the ballot may impact the City. Councilor Scheckla suggested the Council revisit the issue after election results are known. Assistant to the City Manager Liz Newton proposed that Mr. Hendryx return to the Council with a list of prioritized recommendations in late November or early December. Councilor Scheckla stated that he would like to know the budgetary impact of the recommendations.

Mr. Hendryx introduced Sheila Greenlaw-Fink from Community Partners for Affordable Housing (CPAH). Ms. Greenlaw-Fink stated that she hoped the Council would not delay action on the affordable housing incentives until the November election. She stated that CPAH needed to move forward on projects now or opportunities may be lost. She identified some limited cost items such as: tax abatement, permit fee incentives, and advocating for affordable housing at the County

level. Ms. Greenlaw-Fink pointed out that the financial impact of many of the options was nominal.

Councilor Patton asked if CPAH had a specific project in mind that will be coming before the Council prior to the November election. Councilor Patton pointed out that the State and County will also be affected by the November elections. She stated that this was an inopportune time to try to influence these jurisdictions. She continued by saying that although supportive of affordable housing, the Council has to take into account the potential repercussions to the City. Councilor Scheckla and Mayor Griffith concurred with Councilor Patton.


Mr. Hendryx concluded by saying that the goal of the presentation was to get Council direction. Ms. Newton summarized by confirming that Mr. Hendryx would return to Council with a list of prioritized recommendations, along with the cost impact and a description of the process involved in implementing each recommendation.

10. COUNCIL LIAISON REPORTS: None

11. NON-AGENDA ITEMS: None

12. ADJOURNMENT: 9:54 p.m.

Attest:

  
Mayor, City of Tigard  
Date: October 10, 2000

  
Greer A. Gaston, Deputy City Recorder

I:\ADM\CATHY\CCA\000919.DOC

AGENDA ITEM # 3.6 b.  
FOR AGENDA OF July 24, 2001

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Aquifer Storage and Recovery (ASR) Project, Phase 2, Contract w/ Montgomery Watson

PREPARED BY: Dennis Koellermeier DEPT HEAD OK \_\_\_\_\_ CITY MGR OK \_\_\_\_\_

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ISSUE BEFORE THE COUNCIL

Award of contract to Montgomery Watson, not to exceed \$425,000, to complete Phase 2, The Pilot Study, of our three phase Aquifer Storage and Recovery project.

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STAFF RECOMMENDATION

Staff recommends approval of the attached scope of work and authorizing the City Manager to execute an Engineering Services Contract with Montgomery Watson.

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INFORMATION SUMMARY

Aquifer Storage and Recovery is one option of several alternatives identified to improve Tigard's water supply system. ASR has both short term and long term benefits to the City. In the short term, the City's current water supplies do not provide additional water above our current peak day demands of 13 MGD. In the long term ASR can be a means of lowering costs for peak season supplies.

The City has proceeded into ASR application by designing a three-phase process. Phase 1, the Feasibility Study, is now complete and recommends proceeding with Phase 2, the Pilot Test. The feasibility study found no fatal flaws and suggests that a 6 MGD ASR wellfield can be successfully constructed and operated. Phase 2 will construct the first of these wells and allow us to obtain further data to confirm the finding in Phase 1.

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OTHER ALTERNATIVES CONSIDERED

Abandonment or postponement of ASR development in Tigard.

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VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Urban and Public Services, Goal 4, Strategy 2 : Develop plans for surface water production and supply and Strategy 3, Action Plan states: Develop ways to control access to water which will not allow growth to outgrow water supply.



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ATTACHMENT LIST

Scope of Work, Phase 2, dated July 11, 2001, between City of Tigard and Montgomery Watson

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FISCAL NOTES

City Council approved the Phase 2 budget of \$210,500 in the FY 2001-02 budget. Project cost exceeds this amount due to the discovery of damage on the existing well #1, beyond practical repair during the inspection portion of Phase 1. Replacement of well #1 is estimated to cost \$233,000, which is included in this contract.

By postponing the construction of two approved CIP projects (Pipeline extension – 550’ reservoir supply feed, Menlor Reservoir to Sunrise Drive and Sunrise Drive pipeline extension to proposed reservoir site) totaling \$342,000 and shifting other approved CIP projects between funds we will be able to cover the increased costs of \$214,500. These postponed projects will be re-budgeted in future years.

**CITY OF TIGARD  
ASR PROJECT  
SCOPE OF WORK  
PHASE 2 – PILOT TESTING**

**TASK 2.1 PERMITTING AND WATER RIGHTS**

Montgomery Watson will prepare the application for an ASR Limited License from Oregon Water Resources Department (WRD). A formal preapplication conference will be held with WRD to review application requirements as required under WRD rules. The application will contain all information required under OAR 690-350-020, including:

- WRD ASR Pilot Test requirements and cross references to appropriate sections of the plan.
- The project description.
- Source water
- License Duration
- Land use approval.
- Preliminary hydrogeologic information, including geology, a conceptual hydrogeologic model, a description of the aquifer targeted for storage, estimated flow direction and rate of movement, and other information.
- Location of all facilities, including proposed groundwater monitoring well locations, with well location map and tabulated construction details for the recharge well and monitoring wells.
- Proposed ASR Test Program with testing objectives, rationale for the type and duration of testing to be performed (cyclic or single phase recharge), and proposed injection rates and duration of each injection, storage and recovery cycle for the City wells.
- Proposed System Design.
- Groundwater level monitoring procedures for all wells during the pilot test.
- Groundwater quality sampling procedures and testing program for all wells during the pilot test.
- Receiving water quality information.
- Source water quality, quantity, and water rights information.
- Surface water monitoring procedures for the pilot test.
- Water quality monitoring during the disposal of stored recharge water.
- Water right holder agreement
- Program schedule, and
- Contingency measures.

Since the City does not hold any surface water rights to any of three potential sources, a water right holder agreement will be needed from the appropriate water provider(s). The agreement shall indicate permission for use of the water for ASR testing. Early contact with potential source water providers will be required to facilitate the permitting process.

It is assumed that the City will pay any permit application fees directly and sign and formally deliver the application to WRD. It is also assumed that the public comment period will not raise issues that require additional work beyond needed to address previously identified issues by regulatory agencies. We also assume that we can permit discharge of any pilot test water through an existing NPDES permit at the pilot test well site. Our team will make every effort, through ongoing contact with WRD, DEQ and OHD, to expedite the permit approval process so that it is accomplished in the minimum time allotted under WRD rules.

## **TASK 2.2 SOURCE WATER NEGOTIATIONS**

During the Pilot Test, source water will be needed for injection. Potential source supplies include City of Portland, Joint Water Commission or Tualatin Valley Water District (TVWD). One meeting with the appropriate supplier(s) and the City will be held to discuss purchasing surplus water at winter rates.

## **TASK 2.3 WELLHEAD MODIFICATIONS**

### **Task 2.3.1 COT-1 Well Conversion**

In its current state, the City of Tigard well No. 1 (COT-1) does not meet current WRD well construction standards. A leak in the casing was discovered during the Phase I – Feasibility Study. As a result, it is proposed to convert the existing COT-1 well to a multi-level monitoring well and to construct a new production well at the site. The conversion of the COT-1 well involves the following modifications:

- Remove pump from well. Steam clean prior to storage on site;
- Disable check valves and cap distribution line;
- Disable and remove chlorination system to be transferred to new well;
- Install two 2-inch diameter water level monitoring tubes in the modified well which are sealed in isolated zones within the basalt such that these can be used to identify any depth variation in the response of the system to pilot testing;
- Install within each of the 2-inch wells a pressure transducer and data logger to record the water level response to pilot testing.

The conversion of the COT-1 into a dual completion monitoring well assumes that OWRD will grant a variance to perform the work. If a variance cannot be granted, a single completion monitoring well will be constructed.

Conceptual and preliminary design drawings for the wellhead modifications will be prepared. The design drawings will be submitted to the City for review and approval. Record drawings of all wellhead modifications will be provided to the City following completion of the works.

### **Task 2.3.2 ASR Well Construction**

The new ASR-1 well will be designed to enable:

- groundwater production at the Canterbury Lane site
- the proposed ASR pilot testing

The well will be constructed within the grounds of the Canterbury Lane site, at the opposite end of the storage building to the existing COT-1 well. The well will be completed at a nominal diameter of 12 inches to a depth of approximately 600 ft bgl, with a permanent 12 inch diameter casing set grouted into position from surface to 300 ft bgl. The well will be pump tested for 24 hours and based upon the pump test, a permanent pump will be specified. A water quality sample will be collected from the well at the end of the pump test and analyzed for drinking water parameters. Presently, we are estimating a pump capable of producing from 500 to 1000 gpm will be installed in the well. This installation will also enable up to 1000 gpm of water to be injected into the basalt via the pump column. A PVC monitoring tube will be installed in the well: this will house a pressure transducer and datalogger. The wellhead will be housed in a CMU structure of approximate size 15 X 20 feet. In addition, a tie-in to the existing distribution and storm-water piping on the site will be engineered. The associated pipe-work will include 2-way flow meter(s), a sampling tap, a pressure gauge and a pump to waste connection or other means of disposing of the recovered water.

Conceptual and preliminary design drawings for the new well will be prepared. The design drawings will be submitted to the City for review and approval. On-site monitoring of the drilling of the well and modifications to the COT-1 well and to pump test the new production well will occur. Record drawings of all wellhead modifications will be provided to the City following completion of the works.

## **TASK 2.4 ASR PILOT TESTING**

### ***General***

The proposed ASR pilot testing is designed to enable (a) the feasibility of ASR at the site to be evaluated, and (b) to generate the information that will be submitted to OWRD as part of the process of obtaining a permanent ASR license. To achieve these objectives, two phases of testing will be performed:

- Small-scale system checks designed to confirm that the new well and related engineering are functioning as designed:
- Single, large-scale cycle test designed to generate the data that is required to evaluate ASR feasibility and submit an application for a permanent ASR license.

### ***System Checks***

The system checks will include checking the operation of the pump trial followed by a stepped rate injection test. The pump check will involve pumping the well at a series of different rates and monitoring the water level response. Following completion of the pump check, a stepped rate injection test will be performed. This will confirm that the injection is performing satisfactorily and enable the recharge efficiency of the well to be estimated.

### ***Cycle Test***

On completion of the system checks, a single large-scale cycle test will be undertaken. This will be based on injection at the maximum possible injection rate for 120 days; storage for a period of 60 days and recovery of the stored water over the following 180 days. The test would begin in early November 2001, to take advantage of the availability of water for injection and would be completed in October 2002. This strategy is recommended as a means of enabling the test objectives to be combined with beneficial use of the estimated 170 million gallons of treated water that will be purchased and used during the course of the test. Beneficial use, in this instance, is anticipated to be helping meet peak demands during the 2002 summer period.

### ***Management of Testing Related Risks***

Testing related risks that have been identified during preparation of the limited license application include the following:

- Clogging of the new well by low levels of suspended sediment that may be contained in the injected water – with risk of a permanent reduction in the future performance (available yield) of the well;
- Recovery of non-potable water or water that is likely to be considered unacceptable for supply – with a risk that all of the stored water would have to be pumped to waste, during which time the production available from the new well would be lost.

To manage the well-performance risks, injection operations will be periodically suspended and the new well pumped to waste. By using a stepped rate pumping operation in which pumping is increased beyond the long term sustainable yield (a) a large proportion of the suspended sediment introduced into the well is likely to be removed, and (b) any changes in the efficiency of the well can be tracked. It is proposed that pump to waste operations are conducted at a varying frequency to enable the significance of any changes in well efficiency to be evaluated in a timely manner. In the event that any significant, non-recoverable, reductions in efficiency are identified, changes will be made to the injection rate, the pump to waste frequency or both.

To manage the risks associated with producing water of an unacceptable quality, the quality of the stored water will be monitored using a sampling and analysis program that is initiated during the early stages of the storage period. In addition to being submitted for analysis, the recovered water will be made available for flavor profile testing.

Prior to the distribution of the stored water, a camera-ready flyer will be prepared about the ASR project for the City of print and distribute. The flyer will include an announcement for a neighborhood meeting on the project, at which our team members will attend.

In addition to measuring water levels in the ASR well and on-site monitoring wells, consultant team will also try to secure access to obtain water level measurements in several domestic wells and irrigation wells in proximity to the ASR well. Well owners

will be contacted and their permission requested to allow access to measure water levels in their wells on a regular basis during the testing.

## **TASK 2.5 PILOT TEST REPORT**

The results of the pilot testing will be analyzed and incorporated into a pilot test report. The pilot test report will meet the requirements for reporting to OWRD on the results of the pilot test under the Limited License.

The following analyses will be performed:

- Estimation of aquifer transmissivity, storativity, leakage and boundary conditions;
- Evaluation of well performance (efficiency) prior to, during and following recharge;
- Estimation of the spread of recharge water within the aquifer;
- Evaluation of the changes in groundwater flow patterns that occurred during recharge;
- Evaluation of the changes in the hydrochemistry of the aquifer waters that occurred during recharge; and
- Estimation of the overall capacity of the aquifer to accept and store recharge water.

The pilot test report will be prepared to document the pilot test. The pilot test report will include the following:

- Pilot testing procedures;
- Water level hydrographs and aquifer hydraulic analysis for wells prior to, during and following recharge;
- Summary of aquifer hydraulic properties and aquifer conditions;
- Evaluation of well performance (well efficiency) prior to and following recharge;
- Estimation of the spread of recharge water within the aquifer and the changes in groundwater elevations and flow patterns and surface water discharge (springs) during recharge;
- Diagrams illustrating the changes in the composition of groundwater during and following recharge;
- Diagrams illustrating the proportion of recharge water recovered following storage; Contaminant site search for the area that could be affected by ASR to identify potential sources of groundwater contamination. The sites would be ranked in terms of their potential to affect ASR; and
- Recommendations for full-scale ASR implementation, including system capacity expansion, ASR implementation and operations strategy, and updated cost estimates for full-scale implementation.

Five copies of the Draft of the Pilot Test and Project Report would be provided to the City for review and comments received would be incorporated into the Final Report. Results of the Pilot Test Phase will be presented to the IWB and the City Council.

## **TASK 2.6 GROUNDWATER MODEL (OPTIONAL TASK)**

As part of the Limited License, WRD may require a groundwater model as a condition of the permit. The model would help to determine the boundaries of the aquifer and flow characteristics as well as mixing potential of source water and groundwater. If it is deemed necessary by WRD, a more detailed scope of work and separate authorization for this task would be initiated. Project budget includes the estimated cost for this optional task.

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: Rejection of Bid Proposals for the Construction of Bonita Road Sanitary Sewer Improvements

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PREPARED BY: Vannie Nguyen DEPT HEAD OK: A.P. Duenas CITY MGR OK: Bill Monahan

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ISSUE BEFORE THE COUNCIL

Shall the Local Contract Review Board reject all bid proposals for the construction of Bonita Road Sanitary Sewer Improvements?

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STAFF RECOMMENDATION

The staff recommends that the Local Contract Review Board, by motion, reject all bid proposals for the construction of Bonita Road Sanitary Sewer Improvements due to high bids submitted at the bid opening.

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INFORMATION SUMMARY

The existing sanitary sewer system on Bonita Road that begins approximately 500 feet west of 76th Avenue runs in an easterly direction and connects to the USA 60-inch interceptor at Milton Court. The existing 8-inch asbestos cement pipe between manhole no. 46 and manhole no. 44 has poor grade and is sagging at several locations along the line. This line has required monthly cleaning for many years. This section of pipe is approximately 250 feet long and is encased in a 12-inch steel pipe when it crosses Fanno Creek.

This project proposes to replace the existing 8-inch pipe with a 10-inch pipe at a moderate slope to provide a better flow line between the two existing manholes. The new pipe, which consists of a 10-inch High-Density Polyethylene (HDPE) carrier pipe inside an 18-inch steel casing, will be bored under the creek. The Oregon Division of State Lands (DSL) and the US Army Corps of Engineers (Corps) permits have been obtained. There is no construction easement required for the project. Also included in the project is the installation of wetland mitigation work required by the permits.

This project was first advertised for bids on August 31, 2000. However, there were only two high bids submitted at the bid opening on September 14, 2000. After the bid opening, staff interviewed contractors to get an explanation for high bids. The original bid specified a 15-inch casing. Their explanation is that they would want to use either an 18-inch or a 24-inch casing because it would be easier to bore and it would give them more room to maneuver. Consequentially, a bigger casing would create a higher cost for the project. In the Council meeting of September 26, 2001, the Local Contract Review Board rejected all bid proposals.



In order to prevent possible overflows and backs up in the winter last year, a temporary pipe was installed in November 2000 to bypass the damaged section of the existing pipe.

Recently, this project was re-designed to include an 18-inch casing for boring. Other items such as carrier pipe, pipe alignment and location of connection remain the same.

The project was re-bid on June 26, 2001. The bid opening was conducted on July 10, 2001. The bid results are:

Oregon Siteworks	Aloha, OR	\$158,010.00
Canby Excavating	Canby, OR	\$189,809.00
<b>Engineer's Estimate</b>		<b>\$115,790</b>

The difference between the lowest bid from Oregon Siteworks and the Engineer's estimate is approximately \$42,000. Oregon Siteworks indicated that their sub-contractor, Gonzala Tunneling, submitted the boring work of \$550 per linear foot for 185 feet of pipe in comparison with the Engineer's estimate of \$450 per linear foot. Please note that the same subcontractor submitted a bid of \$416.20 per linear foot last year, which resulted in rejection of bids. Another pay item that makes up the difference of \$42,000 between the Engineer's estimate and the lowest bid is "Mobilization". This item was bid at \$25,500 in comparison with the estimate of \$6,000. However, the 2<sup>nd</sup> lowest bidder bid this item at only \$5,000.

Because there were only two bids that were both extremely high, staff recommends rejection of the bids. Upon approval of rejection of these bid proposals, staff intends to re-bid the project in the spring next year. The bypass pipe that was installed temporarily should be strong enough to carry flow for at least another two years. Bidding in the spring should provide better competition and hopefully much lower bids.

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#### OTHER ALTERNATIVES CONSIDERED

None

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#### VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

None

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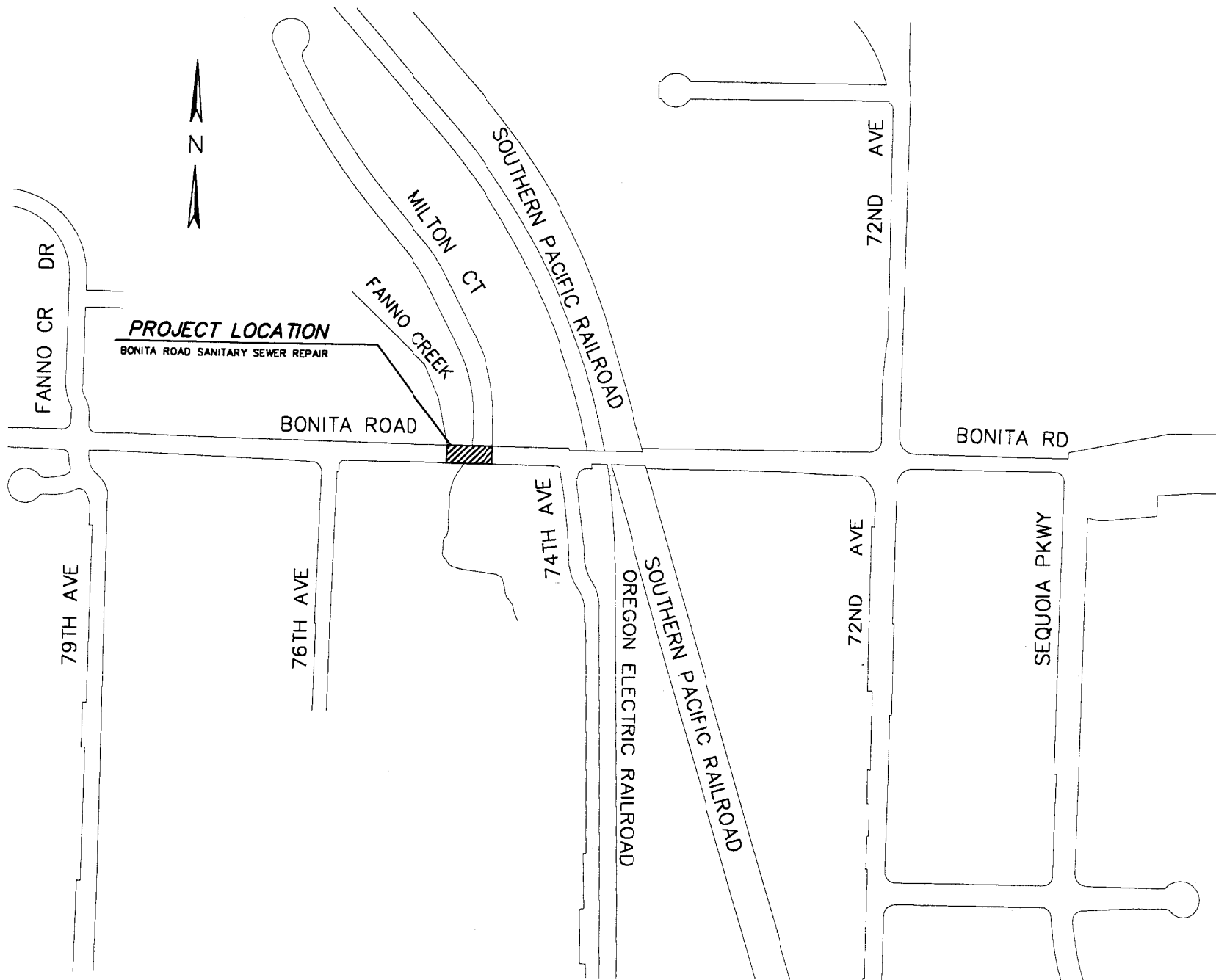
#### ATTACHMENT LIST

Project location map

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#### FISCAL NOTES

This project is funded in the amount of \$125,000 in the FY 2001-02 CIP Sanitary Sewer System Program.



CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: Rejection of Bid Proposals for the Construction of FY 2001-2002 Pavement Major Maintenance Program (PMMP) and Embedded Crosswalk Lighting System Project

PREPARED BY: Vannie Nguyen DEPT HEAD OK: A.P. Duenas CITY MGR OK: Bill Monahan

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ISSUE BEFORE THE COUNCIL

Shall the Local Contract Review Board reject all bid proposals for the construction of FY 2001-2002 Pavement Major Maintenance Program (PMMP) and Embedded Crosswalk Lighting System?

---

STAFF RECOMMENDATION

The staff recommends that the Local Contract Review Board, by motion, reject all bid proposals for the construction of FY 2001-2002 Pavement Major Maintenance Program (PMMP) and Embedded Crosswalk Lighting System project due to high bids submitted at the bid opening.

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INFORMATION SUMMARY

The City of Tigard's Pavement Overlay Backlog list identifies streets that need corrective overlays/inlays and slurry seals. The backlog has been reduced gradually. However, due to limited funding, only a few streets from the list can be addressed this fiscal year. The proposed project for FY 2001-02 includes Kable Street (between Naeve Street and 103<sup>rd</sup> Avenue), 121<sup>st</sup> Avenue and North Dakota Street (between Scholls Ferry Road and Springwood Drive). These streets will receive a combination of pavement inlay and slurry seal treatment. Ash Avenue (between Scoffins and Commercial Street) and Meadow Street (east of Tiedeman Avenue) will receive inlay treatment. Also included in the proposed project is slurry seal treatment for the following streets in Washington County: 157<sup>th</sup> Avenue and 158<sup>th</sup> Terrace (north of Roshak Road) and Baker Lane (east of 158<sup>th</sup> Terrace).

Last year's Capital Improvement Program proposed the installation of crosswalk lights at three locations. However, the funding was only enough for construction at two locations: Main Street (at bridge) and Walnut Street (at Grant Avenue). This year's project is the installation of embedded crosswalk lights at the intersection of 121<sup>st</sup> Avenue and Springwood Drive. Although the lighting system project is typically bid separately, we combined the work with the PMMP project because of the close coordination needed with the inlay work to avoid unnecessary damage to the new pavement.

The project was advertised for bids in late June 2001 and the bid opening was conducted on July 10, 2001. The bid results are:

Morse Brothers	Tualatin, OR	\$175,957.55
Eagle Elsner	Sherwood, OR	\$190,645.60

## Engineer's Estimate

**\$162,185**

For this project all bidders were required to submit a bid bond in the form of postal money order or cashier's check in the amount of ten percent of the bid as security. Morse Brothers did not include a money order or cashier's check in their bid, hence that bid was considered non-responsive. Eagle Elsner is determined to be the lowest responsive bidder for the project.

The difference between Eagle Elsner's bid and the Engineer's Estimate is approximately \$28,500. Out of \$28,500, \$19,500 was included in the bid item for the embedded crosswalk lighting system. Eagle Elsner submitted their bid at \$42,500 for this item. Last year, this item was bid at approximately \$23,000 per location. Since lighting installation is a specialty item, which has to be performed by an electrical contractor, prime contractors normally subcontract their work and mark up the price. This indicates to us that it would probably be best to bid and award the crosswalk lighting system as a separate project.

Because there were only two bids that were both well over the Engineer's Estimate, staff recommends rejection of the bids. Staff intends to re-bid the work immediately after approval of rejection of these bid proposals. The work will be separated into two projects: Pavement Major Maintenance Program, which includes slurry seal and inlay work on City and County Roads, and the Embedded Crosswalk Lighting Installation. Separating the work into two projects should provide lower bids and better competition.

It is possible to award the lowest responsive bid, but at the expense of the traffic calming program. Should the Local Contract Review Board decide to award the contract now, construction would begin approximately August 20, 2001 and the project would be completed by October 31, 2001. If the project is re-bid following approval of bid rejection, construction would begin around September 24, 2001 and the project would be completed by the end of November. Therefore, re-bidding of the project would delay the completion date about one month.

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### OTHER ALTERNATIVES CONSIDERED

None

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### VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

None

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### ATTACHMENT LIST

Project location map

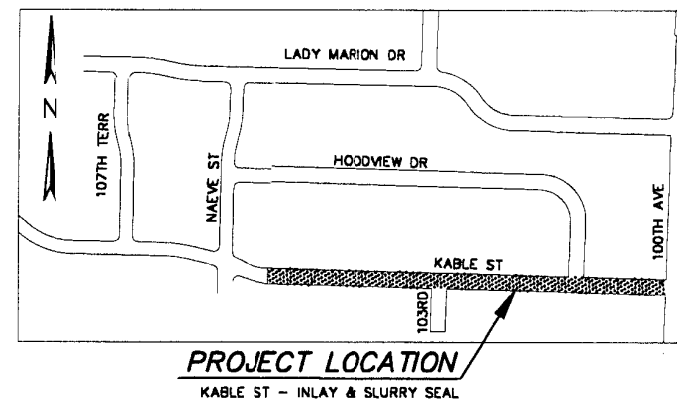
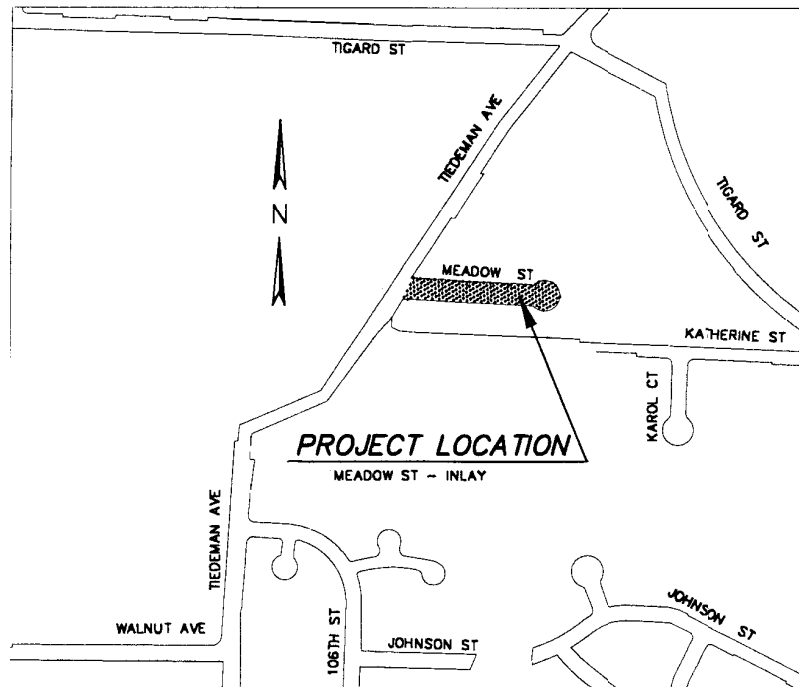
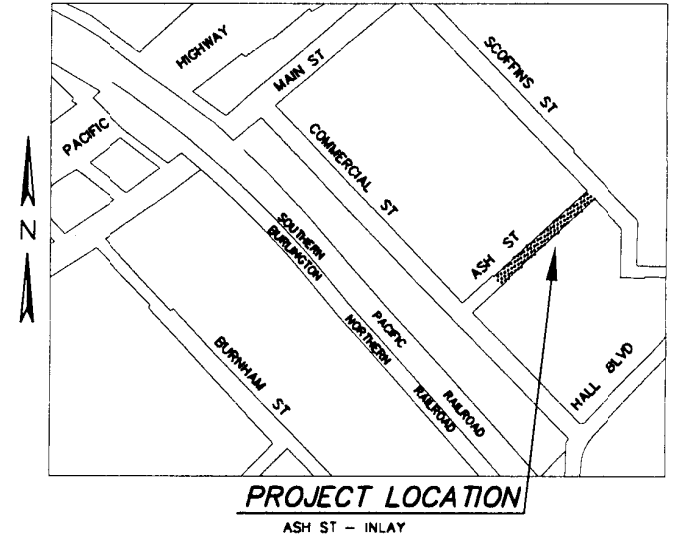
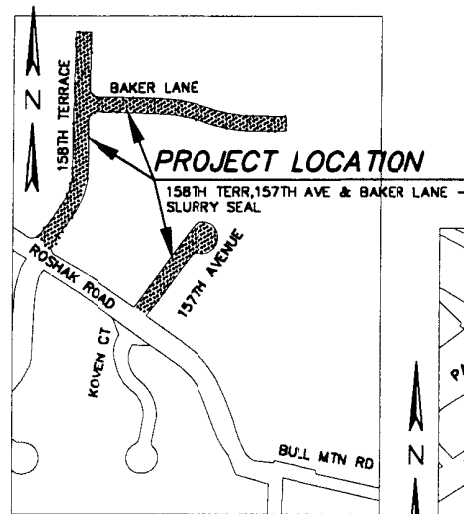
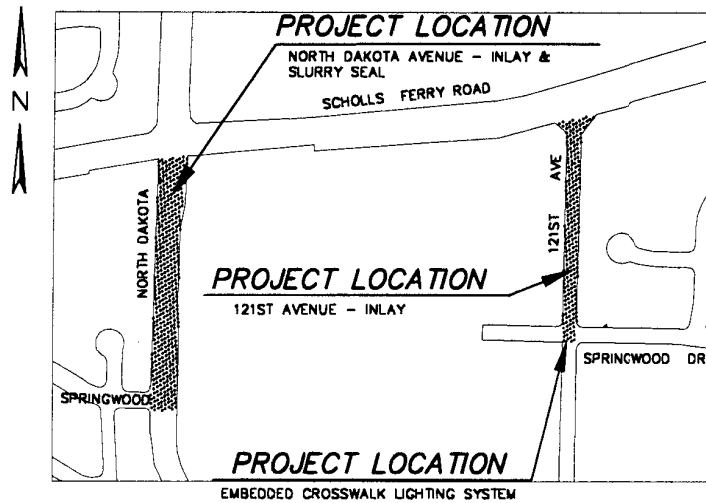
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### FISCAL NOTES

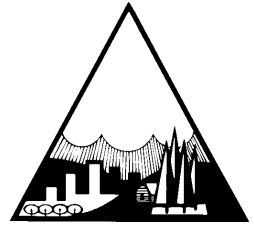
The amount in the bid for the City streets is approximately \$182,000. The amounts of \$130,000 and \$40,000 have been allocated in FY 2001-2002 from the State Gas Tax revenue for the PMMP and the Embedded Crosswalk Lighting projects respectively. These two amounts are insufficient to award the lowest responsive bid without drastically reducing the amount available for the City's traffic calming program. Funding for the County Roads is

provided by the County in accordance with the Urban Services Area IGA. The County's portion of the work is approximately \$9,000.

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# MEMORANDUM



TO: Honorable Mayor & City Council

FROM: Cathy Wheatley, City Recorder

RE: Agenda Item 3.7

DATE: July 17, 2001

Council meeting packet materials for Agenda Item 3.7, *Adopt the OPEU Collective Bargaining Agreement and Authorize the City Manager to Sign the Final Draft*, will be forwarded to the City Council in its weekly newsletter mail envelope.

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AGENDA ITEM # 4  
FOR AGENDA OF July 24, 2001

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Presentation by PGE on recent civic responsibility and energy issues polls.

PREPARED BY: Craig Prosser DEPT HEAD OK \_\_\_\_\_ CITY MGR OK \_\_\_\_\_

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ISSUE BEFORE THE COUNCIL

Informational briefing only.

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STAFF RECOMMENDATION

No action required.

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INFORMATION SUMMARY

Portland General Electric recently commissioned polls by Davis & Hibbitts on statewide attitudes towards civic responsibility and energy issues. Karen Lee for the Portland General Electric Government Affairs Office will present the results of that survey to the City Council and will be available to respond to any questions.

The Civic Responsibility portion of the survey tested the attitudes of frequent, occasional and non-voters towards voting and community involvement. This information may be instructive as the Council considers placing measures on the ballot.

The Energy Issues portion of the survey tested public perceptions of various electrical energy issues, including electrical shortages, the need for conservation, and price.

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OTHER ALTERNATIVES CONSIDERED

N/A

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VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

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ATTACHMENT LIST

Informational packet (hard copy only)

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FISCAL NOTES

N/A





# **PGE Telephone Studies**

***Civic Responsibility and Energy Issues***

**Studies Conducted by Davis & Hibbitts, Inc.**

Davis & Hibbitts, Inc.  
921 SW Morrison Avenue, Suite 434  
Portland, Oregon 97205  
(503) 220-0575  
e-mail: [dhi@dhiresearch.com](mailto:dhi@dhiresearch.com)

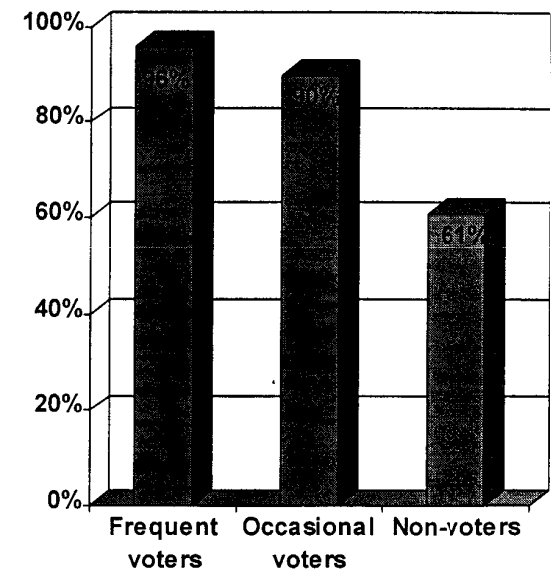
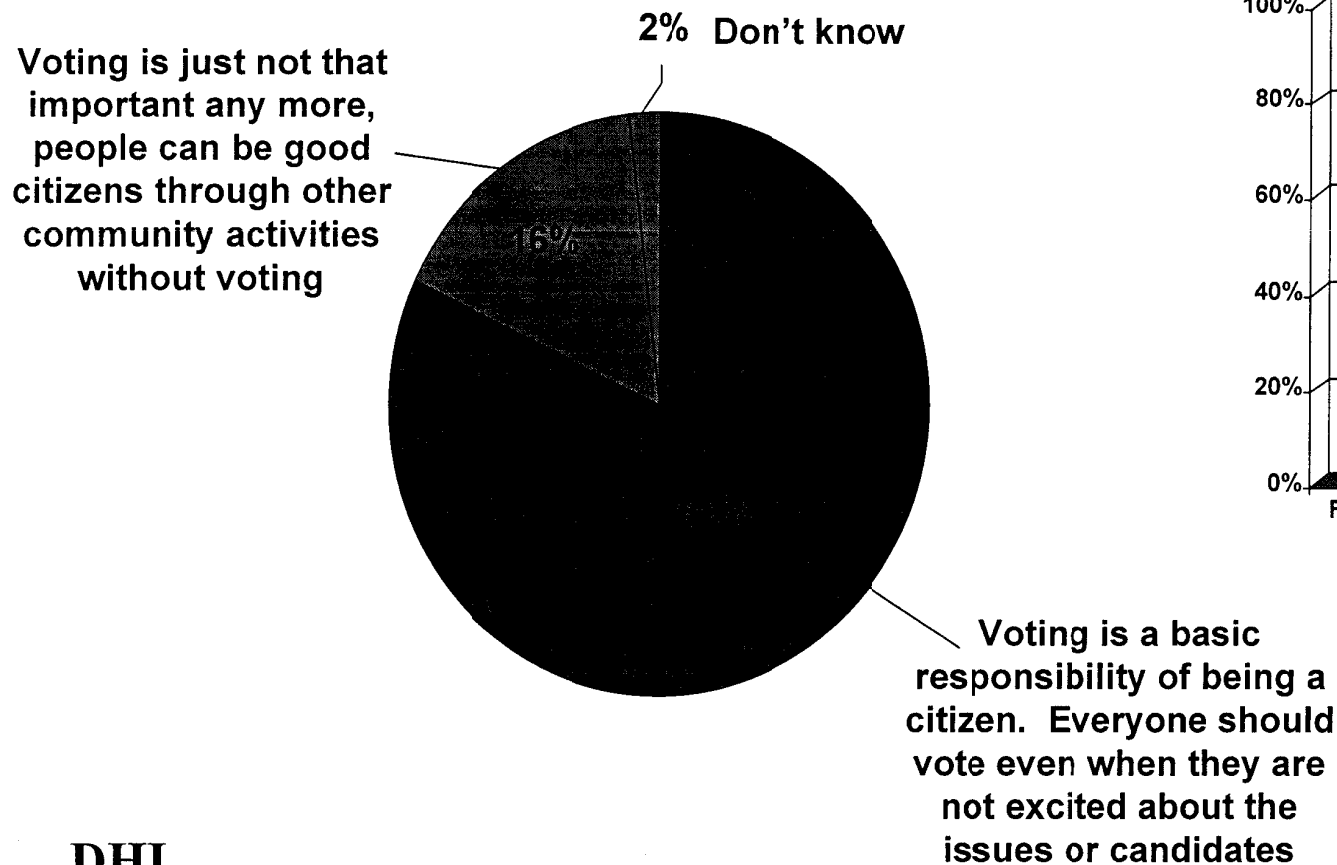


# **Civic Responsibility** ***Statewide Survey***

# Methodology: Civic Responsibility

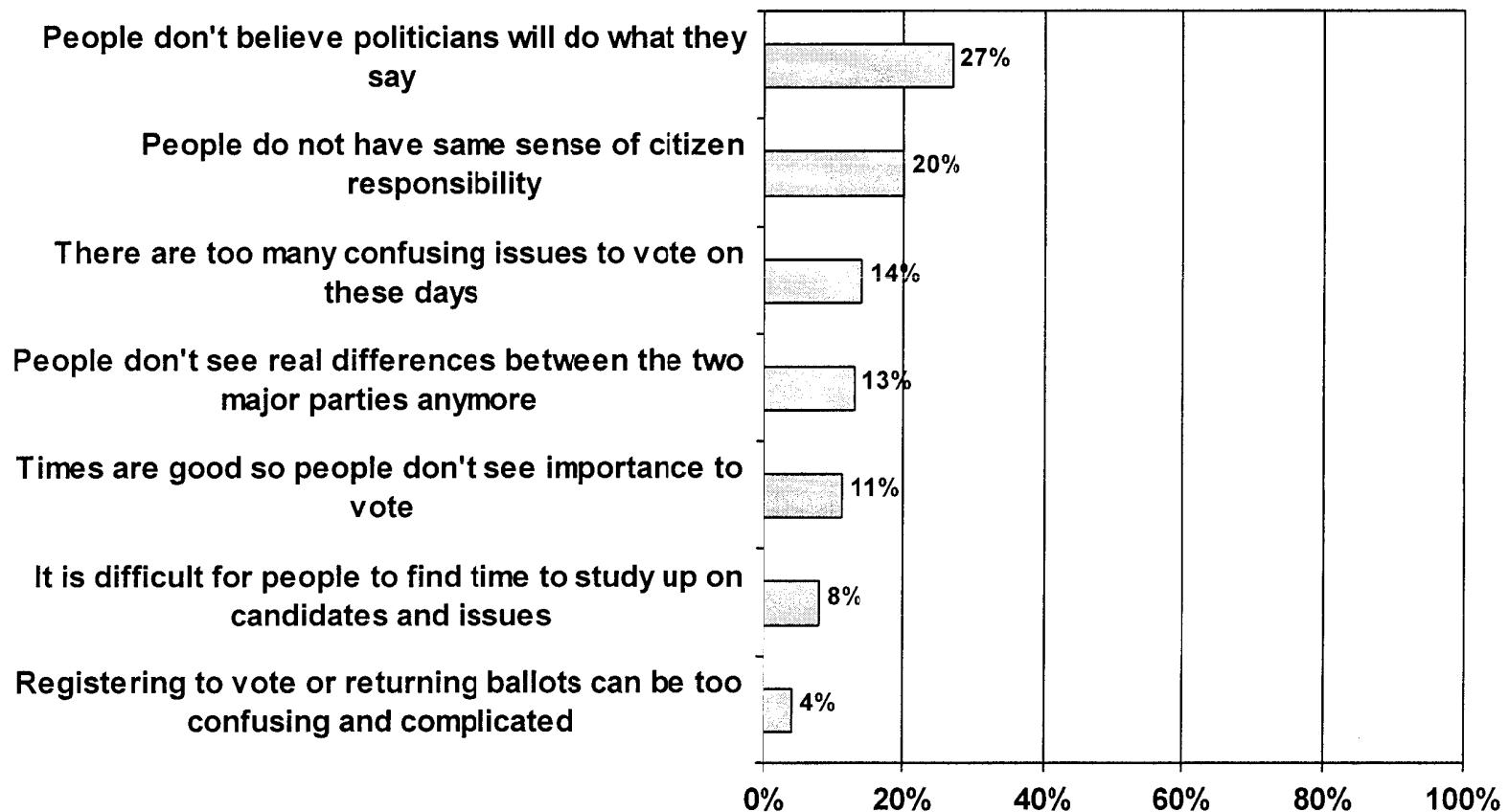
- **Questionnaire Design**
  - Questionnaire designed by Davis & Hibbitts, Inc. in consultation with PGE
  - Averaged 20-22 minutes in length
  - Conducted between November 10 and 13, 2000
  
- **Sample Design**
  - Total sample size of 600
    - 200 frequent voters (vote in all or nearly all elections)
    - 200 occasional voters (vote in some elections)
    - 200 non-voters (do not vote or not registered to vote)
  - Statewide Oregon
  - Oregonians aged 18 and older
  - Random Digit Dialing (RDD)

# Oregonians believe everyone should vote even when they are not excited about issues or candidates



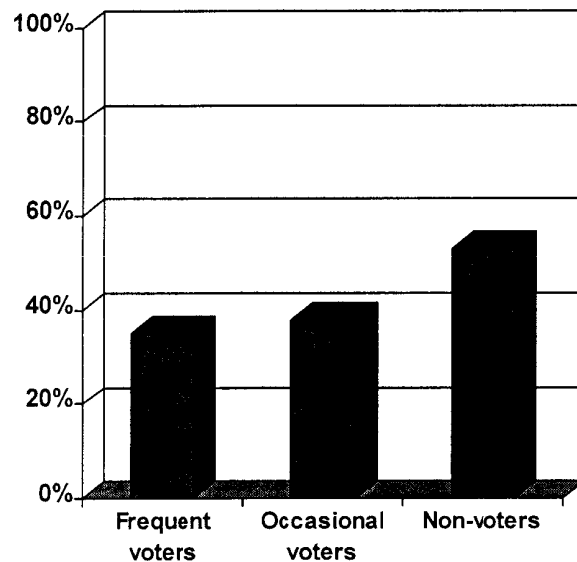
# Reasons why Oregonians don't vote

Q8. Over the past few years, the percentage of eligible citizens who are voting has steadily declined. Which one of the following reasons do you think is the most likely reason for the decline in voting?



# Statements about major political parties

Q10. Please tell me which statement is closer to your point of view.



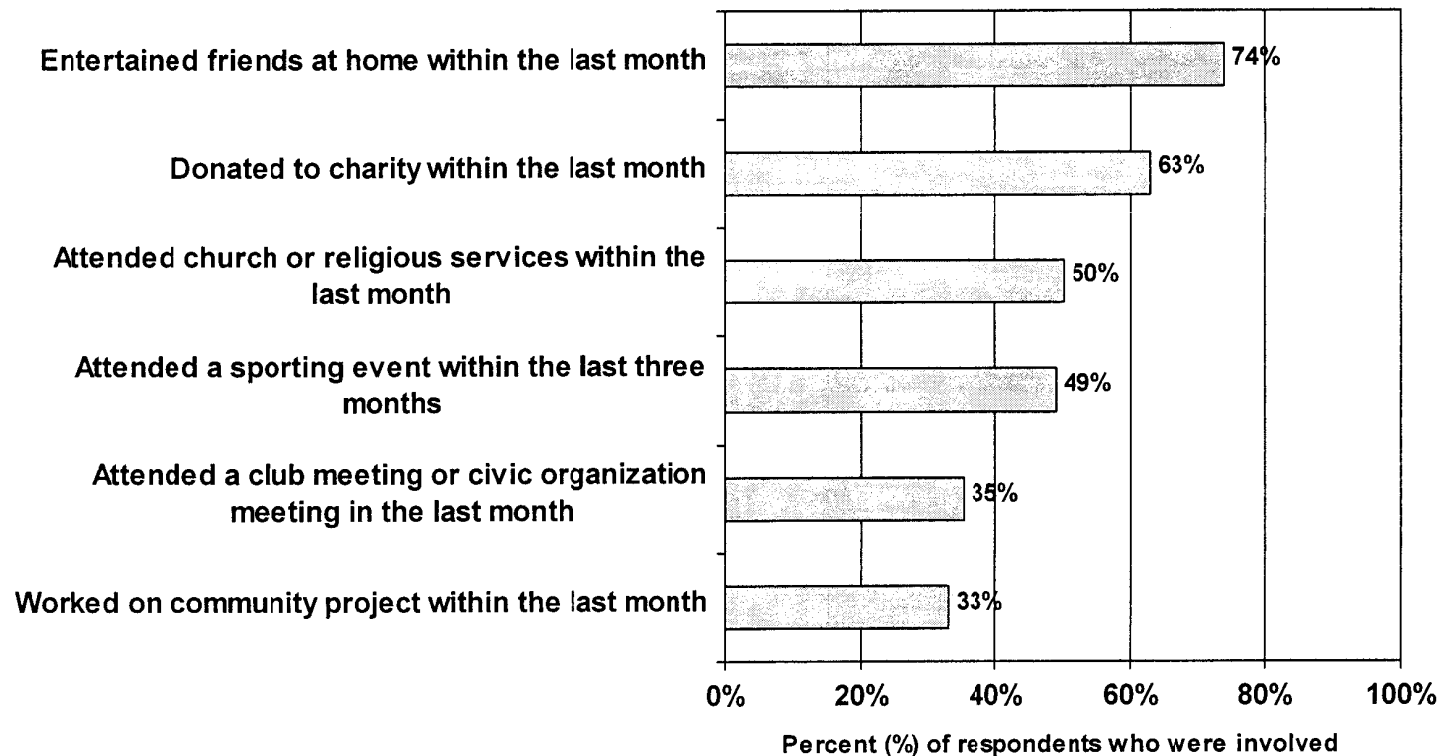
The major political parties don't stand for much other than raising money and getting re-elected

Don't know

The major political parties still have distinct differences and stand for different goals

# Involvement in community activities

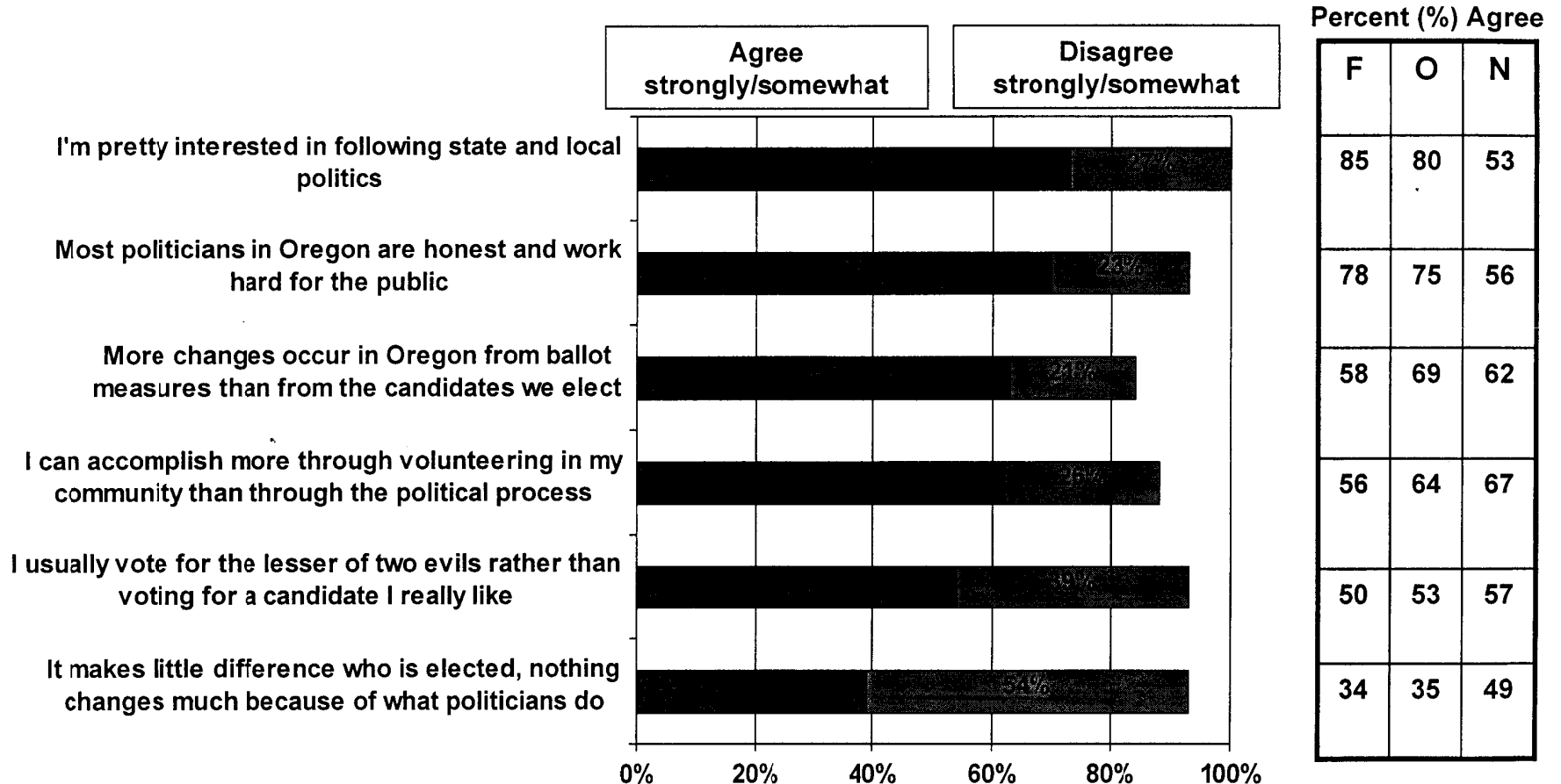
Q20. I would like to ask you some questions about your involvement in your community. Please tell me if you have been involved or done that particular activity.



F	O	N
77	68	78
71	66	54
55	52	44
53	51	43
43	35	27
35	35	29

# Agree – disagree statements

Q21. Please tell me if you agree strongly, agree somewhat, disagree somewhat, or disagree strongly with that statement.







# **Energy Issues** ***Statewide Survey***

**DHI**

**Slide 9**

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# Methodology: Energy Survey

- **Questionnaire Design**
  - Questionnaire designed by Davis & Hibbitts, Inc. in consultation with PGE
  - Averaged 20 minutes in length
  - Conducted between February 12 and 14, 2001
- **Sample Design**
  - Total sample size of 600
  - Statewide Oregon
  - Oregonians aged 18 and older
  - Random Digit Dialing (RDD)

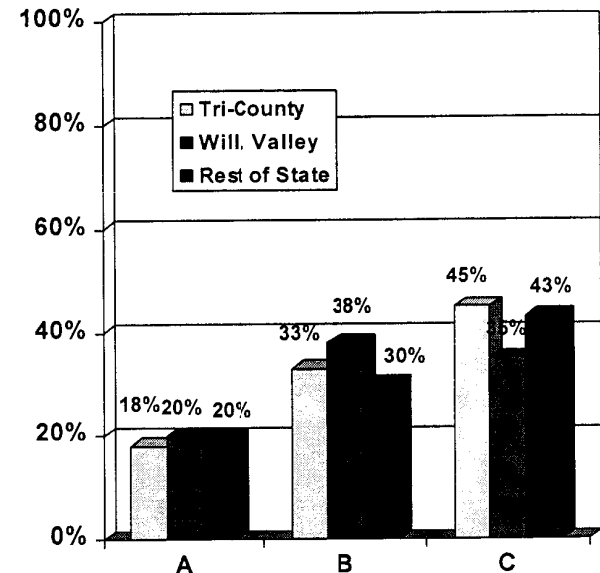
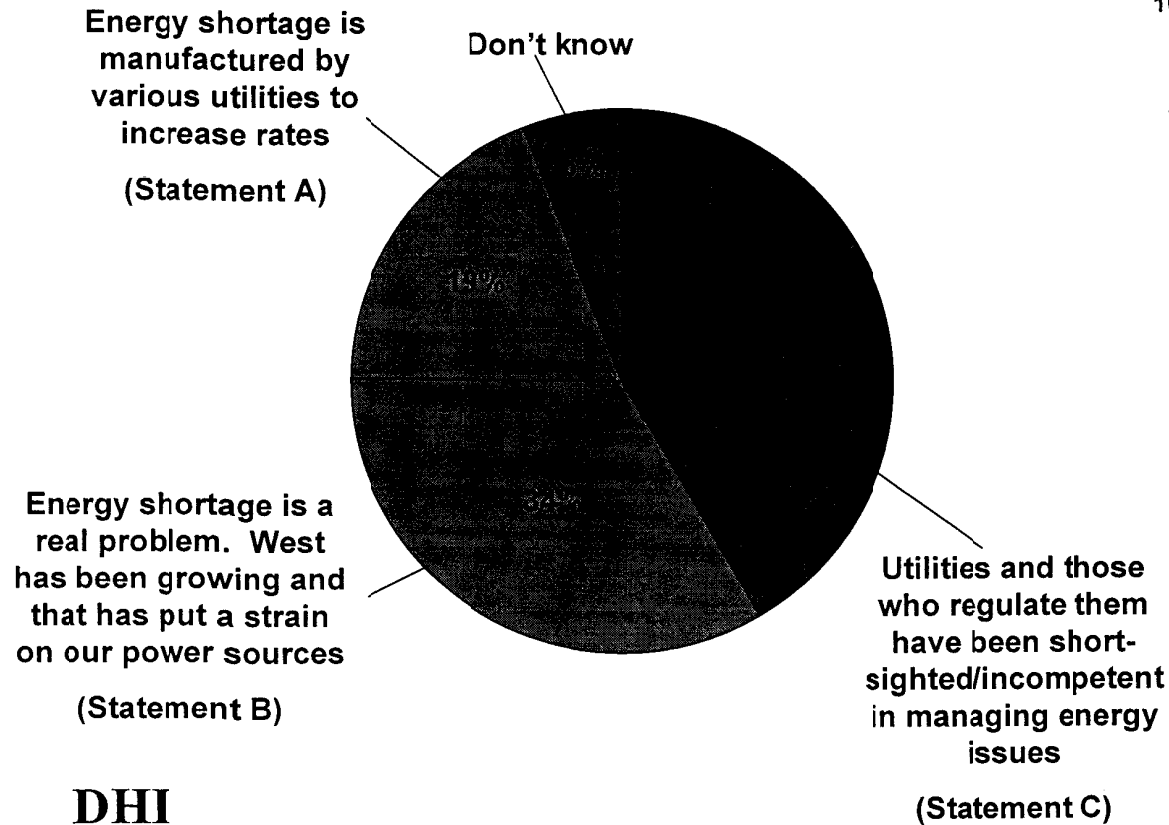
# Main issues of concern in Oregon

Q2. I would like to ask you about issues facing Oregon. Using a scale of 0 to 10, where 0 means you are not concerned about that issue at all now, and 10 means that you are very concerned about that issue now, please rate each of the following.

Issues Facing Oregon	Mean	Percent Rating 8-10
Price of electricity	7.2	53%
Quality of public education	7.1	52%
Possible shortage of electricity	6.9	47%
Crime in Oregon	6.5	39%
Quality of the environment	6.3	41%
The economy of Oregon	6.3	35%
Condition of Oregon's roads and highways	6.0	32%

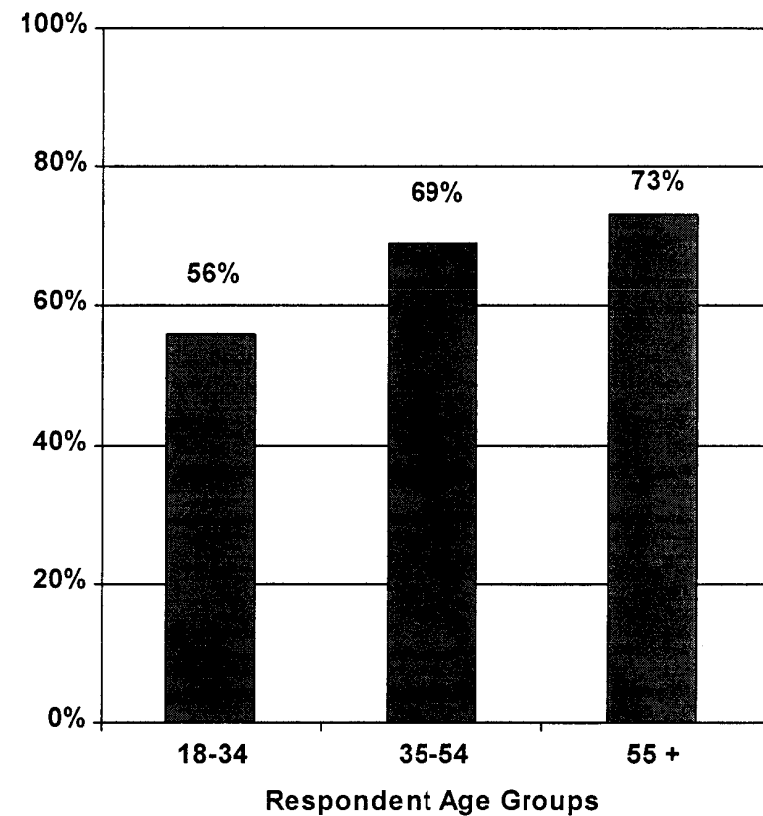
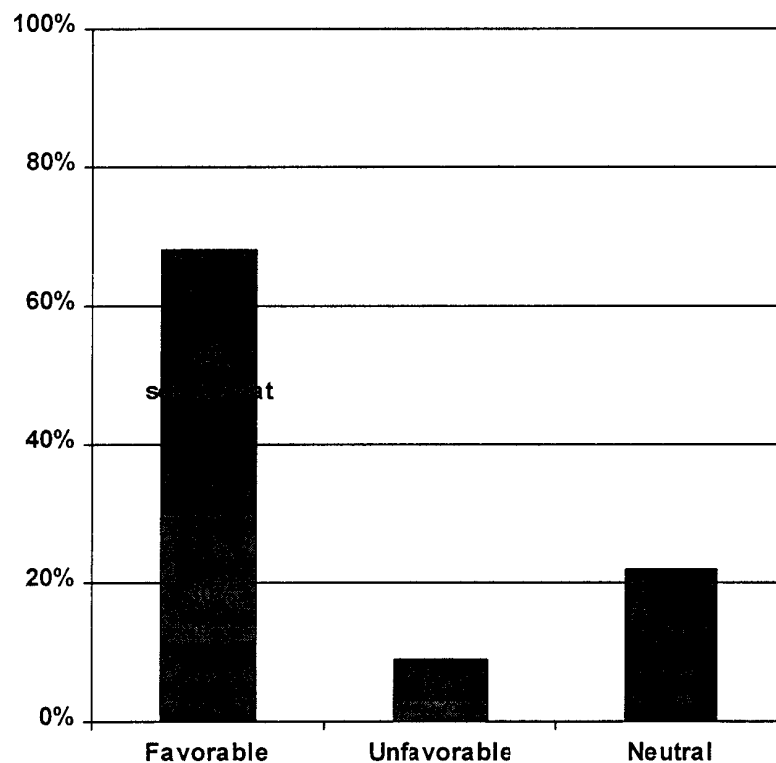
# Oregonians believe utilities have been short-sighted/incompetent in managing energy issues

Q5. The state of California has had a number of rolling electricity blackouts over the past month. It is considered possible this could also happen in Oregon ... which one of the following statements is closest to your point of view.



# Customers with favorable impressions of their electric utility

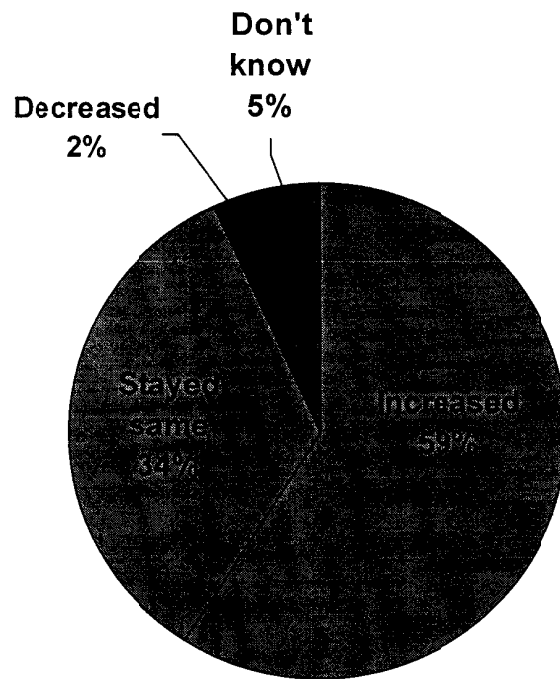
Q7. Would you say that you have a very favorable, somewhat favorable, neutral, somewhat unfavorable, or very unfavorable impression of your electric utility?



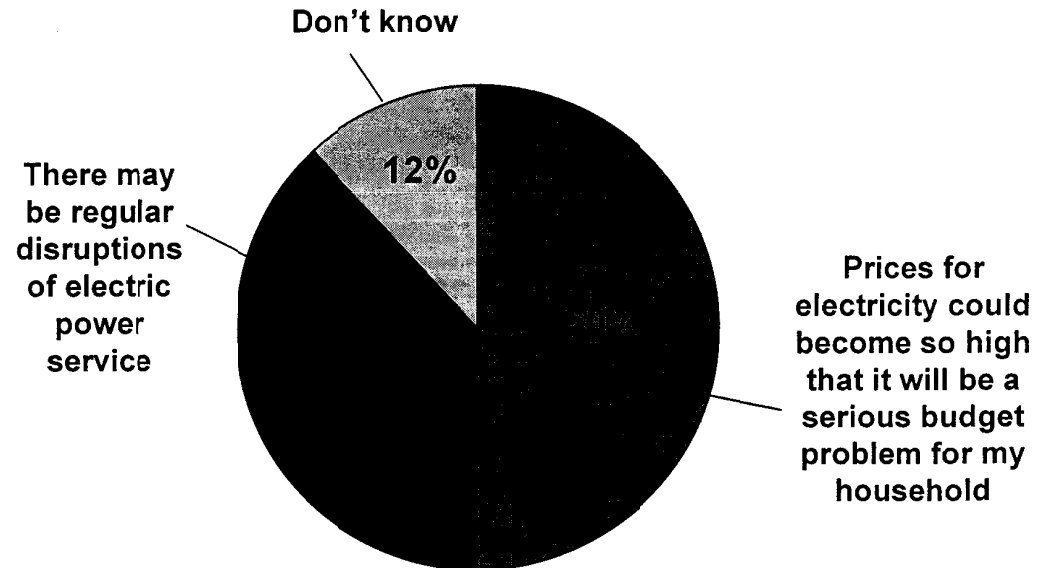
# Electric rate changes and concerns

Q7b. Thinking about your electric utility, have your electric rate prices gone up, gone down, or stayed the same over the past two years?

Q9. Which one of the following statements concerns you the most about electricity?

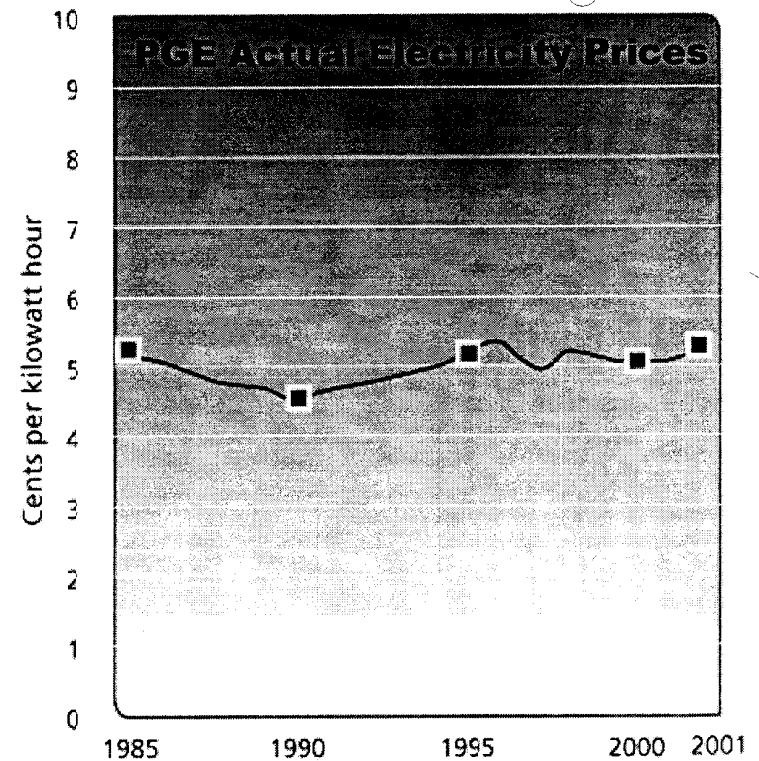
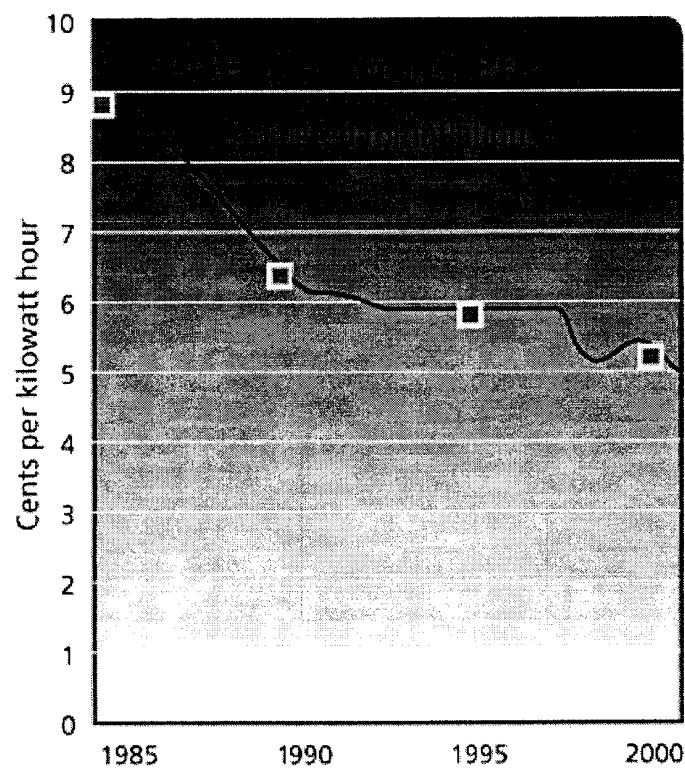


Have electric prices increased, decreased, or stayed the same?



Concerns about electric rates and power disruptions

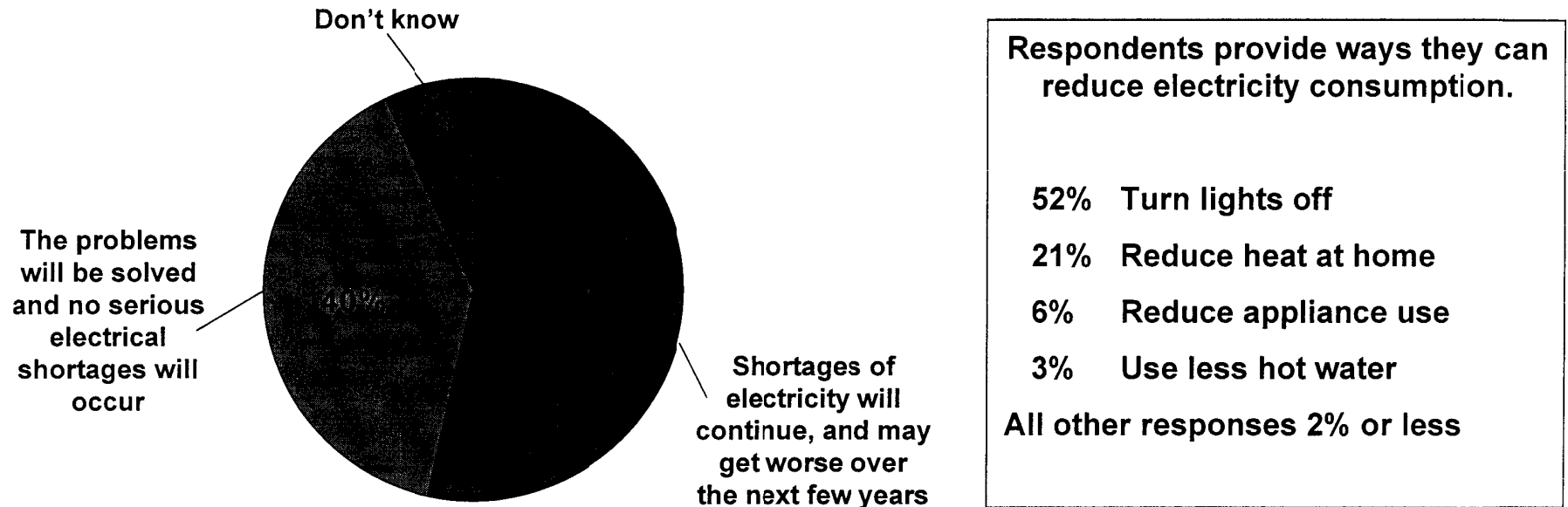
# PGE prices have remained stable



# Reliability of electricity service

Q8. Looking ahead two years, what do you think is likely to happen regarding the reliability of electricity service in the state of Oregon?

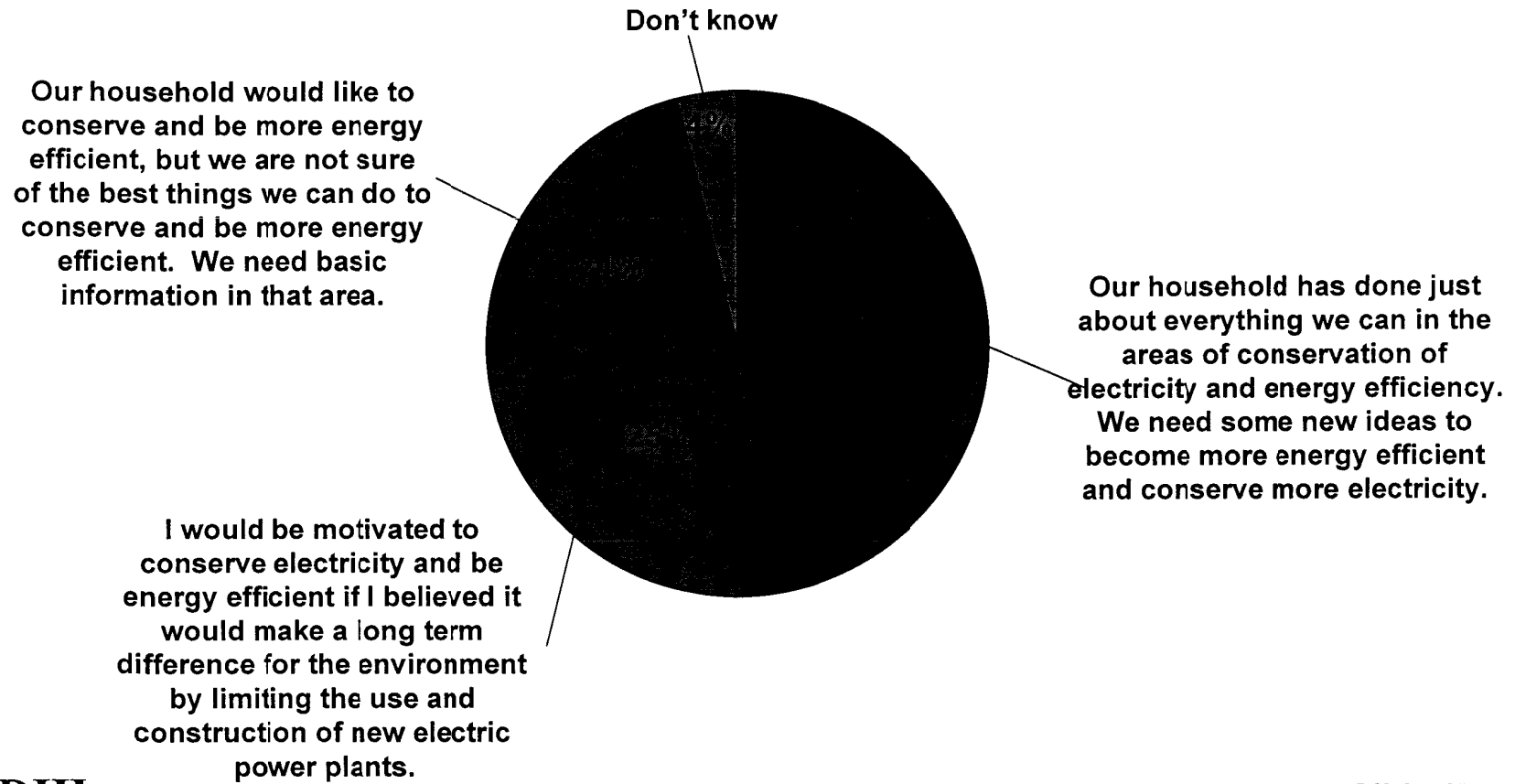
Q11. In your opinion, where can your household reduce its use of electricity the most?





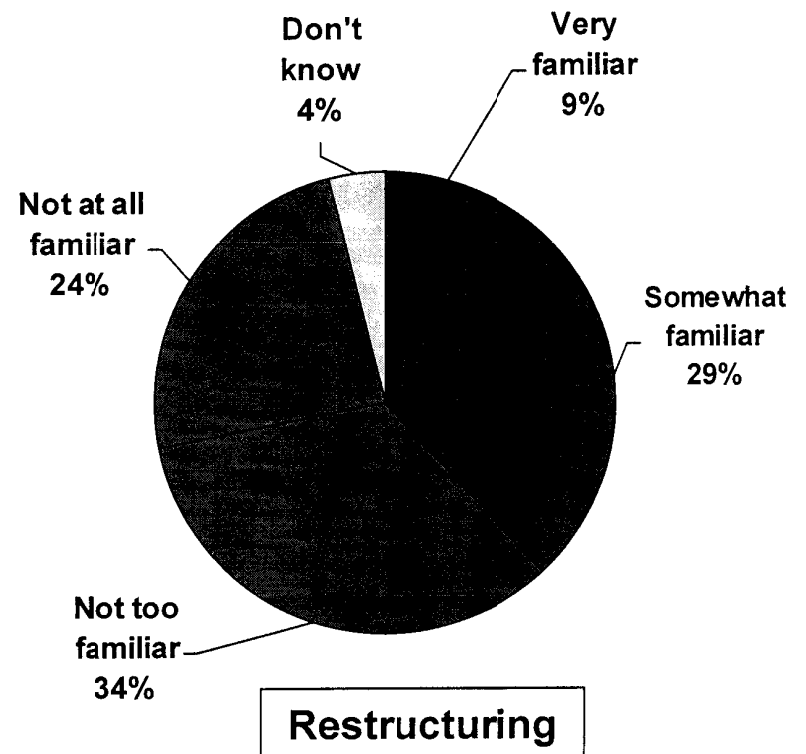
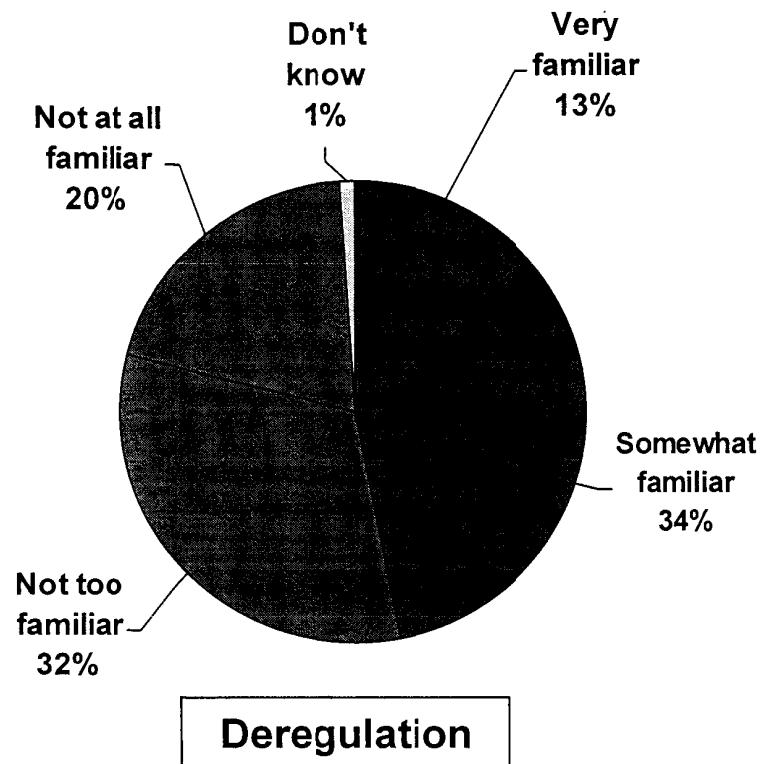
# Statements about conservation

Q12. Which one of the following do you think best describes your household.



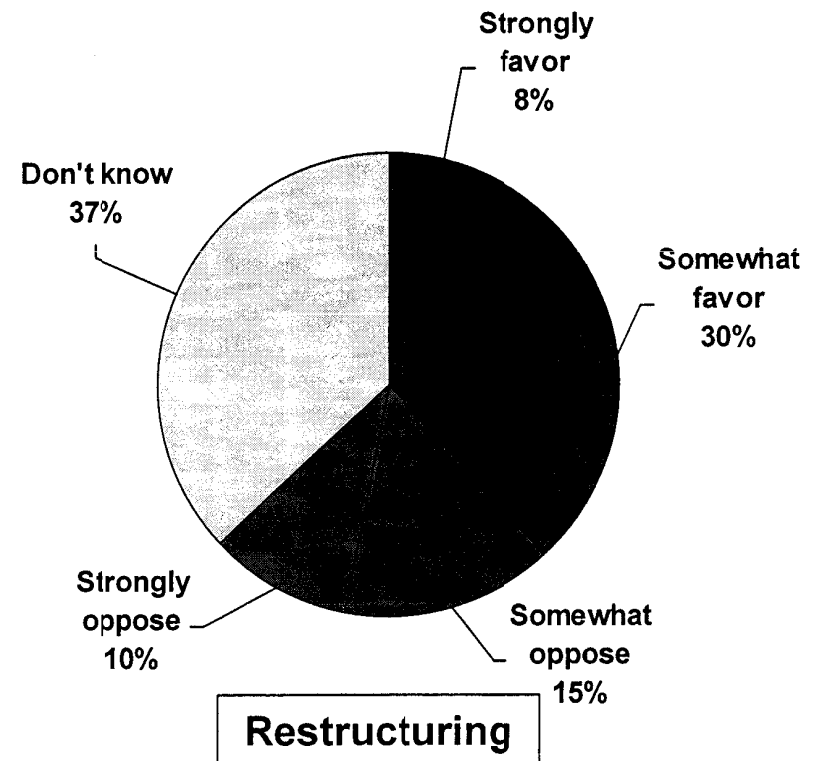
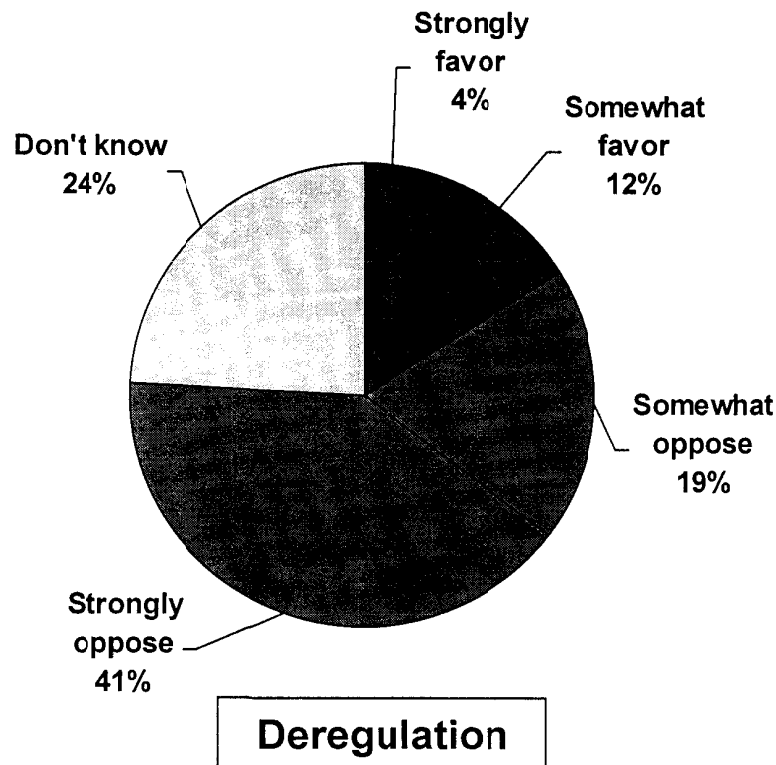
# Familiarity of deregulation / restructuring of electricity

Q19a/b. Would you say that you are very, somewhat, not too, or not at all familiar with the issue of deregulation of the electricity industry in Oregon?



# Support level for electricity deregulation / restructuring in Oregon

Q20a/b. Would you strongly favor, somewhat favor, somewhat oppose, or strongly oppose Oregon's plan to deregulate/restructure the electricity industry?



# Trust of Individual, Co. or Group

Individual/Group/Co.	Great Deal	Fair Amount	Just Some	A Little	Not
• <b>Gov. Kitzhaber</b>	23%	26%	20%	11%	14%
• <b>Mayor</b>	15%	23%	23%	12%	17%
•					
• <b>Utility Spokesperson</b>	12%	25%	28%	15%	7%
•					
• <b>County Commissioners</b>	9%	26%	29%	14%	13%
• <b>Citizen's Utility Board</b>	12%	23%	26%	8%	8%
•					
• <b>OPUC</b>	8%	26%	34%	14%	9%
• <b>Ralph Nader</b>	12%	19%	20%	13%	26%
• <b>BPA Spokesperson</b>	6%	22%	30%	16%	15%
• <i>Davis &amp; Hibbitts, Inc.-PGE Survey</i>					



# **The End Portland General Electric**

**DHI**

**Slide 21**

AGENDA ITEM # 5  
FOR AGENDA OF July 24, 2001

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Update from the New Tigard Library Construction Committee

PREPARED BY: Margaret Barnes DEPT HEAD OK                      CITY MGR OK                     

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ISSUE BEFORE THE COUNCIL

Presentation by the New Tigard Library Construction Committee to update the City Council on the status of the work of the Committee.

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STAFF RECOMMENDATION

The staff recommendation is for the City Council to provide the Construction Committee further direction to continue its work.

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INFORMATION SUMMARY

The New Tigard Library Construction Committee met with the City Council in April and June of 2001. At these meetings, the Committee reviewed the recommendations from the "Needs Analysis Report for a new Tigard Library" and presented preliminary information about three potential sites. The Committee also presented information supporting the recommendation that the new library be a two-story structure. The Committee was directed to continue the current process and at this time is prepared to give an update to Council on the work of the Committee.

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OTHER ALTERNATIVES CONSIDERED

Continue with this process and look at placing a bond measure on the ballot in May or November 2002. Complete the current process and wait until a later date for the question to be placed before the voters.

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VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Goal #3: Adequate facilities are available for efficient delivery of life-long learning programs and services for all ages.

Strategy #1: Form a construction committee to explore the feasibility of new library space.

Action Items:

Construction Committee reviews possible sites for new library space.

Construction Committee recommends to the City Council a short list of potential sites.

Strategy #2: Construction Committee reviews the "Needs Analysis Report" and the "Building Programming Report" and presents recommendations to City Council.

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ATTACHMENT LIST

N/A

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FISCAL NOTES

The preliminary estimated cost for this project is between \$14,000,000 and \$17,000,000.

AGENDA ITEM # 6  
FOR AGENDA OF 7/24/01

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Appeal of Blue Heron Park Subdivision (SUB2001-00001, PDR2001-00001, ZON2001-00002, SLR2001-00003, VAR2001-00002).

PREPARED BY Kevin Young DEPT HEAD OK \_\_\_\_\_ CITY MGR OK \_\_\_\_\_

ISSUE BEFORE THE COUNCIL

Should the City Council uphold or reverse the Planning Commission's denial of the Blue Heron Park Subdivision?

STAFF RECOMMENDATION

Reverse the Planning Commission's denial of the Blue Heron Park Subdivision.

INFORMATION SUMMARY

On June 11, 2001 the Tigard Planning Commission held a public hearing to consider an application for an 18-lot subdivision and planned development on 4.15 acres of land. The property is located at 12450 SW Walnut Street, opposite the intersection of 124<sup>th</sup> Avenue and Walnut Street. The development proposal is for attached, single family homes on individual lots. Through the flexibility allowed under planned development regulations, the size of individual lots averages approximately 3,800 square feet. Development is to be clustered on the west side of the development site, allowing for the preservation and enhancement of the pond, wetland, and stream area on the eastern portion of the property. A sensitive lands review is required for the development due to the presence of steep slopes, a wetland, and a natural drainageway on the site. The Planning Commission denied the application, based on the finding that the development would adversely affect the welfare of the City.

The applicants filed an appeal on June 22, 2001 of the Planning Commission's decision, based on the assertion that the Planning Commission failed to: explain the criteria and standards considered relevant to the decision, state the facts relied upon in rendering the decision, and explain the justification for the decision based on the criteria, standards, and facts set forth. Staff have reviewed the applicable decision criteria and find there is no criterion regarding the effect of development on the welfare of the City. This is a broad, subjective standard. The purpose statement for subdivisions (Section 18.430.010.A of the Tigard Development Code) includes a statement that the provisions of the chapter are intended to "promote the public, health, safety, and general welfare." However, purpose statements are not decision criteria.

OTHER ALTERNATIVES CONSIDERED

1. Uphold the Planning Commission's denial of the application. If this option is chosen, staff requests that the findings for the decision be clearly linked to applicable code criteria.



2. Reverse the Planning Commission's denial of the application and approve the proposed development, subject to additional conditions of approval as deemed necessary by the City Council.

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VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

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ATTACHMENT LIST

1. Draft City Council Resolutions.
2. Memorandum dated July 10, 2001 from Associate Planner Kevin Young regarding staff analysis of the appeal.
3. Copy of Appeal application and written statement, submitted by Matthew Sprague on behalf of the Urban Development Corporation.
4. Copy of Final Order No. 2001-02 PC, which includes the staff report and subsequent Planning Commission action on the subdivision application.
5. Draft minutes of Planning Commission's June 11, 2001 Public Hearing regarding the Blue Heron Park Subdivision. Attached are copies of all written materials submitted at the hearing.
6. Additional written comments received after the issuance of the Planning Commission's Final Order and prior to the City Council public hearing.
7. Application Materials.

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FISCAL NOTES

N/A

CITY OF TIGARD, OREGON

RESOLUTION NO. 01-

**A RESOLUTION ADOPTING THE FINAL ORDER FOR A SUBDIVISION, PLANNED DEVELOPMENT, ZONE CHANGE, SENSITIVE LANDS REVIEW, AND VARIANCE (BLUE HERON PARK SUBDIVISION - SUB2001-00001/PDR2001-00001/ZON2001-00002/SLR2001-00003/VAR2001-00002).**

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**WHEREAS**, the Planning Commission reviewed this case at its meeting of June 11, 2001; and

**WHEREAS**, the Planning Commission denied the application (Planning Commission Final Order No. 01-02 PC); and

**WHEREAS**, the applicants submitted an appeal of the Planning Commission's denial of the application on June 22, 2001, and

**WHEREAS**, a new public hearing with new testimony was provided on July 24, 2001; and

**WHEREAS**, the City Council determined that the Planning Commission final order failed to explain the criteria and standards considered relevant to the decision, state the facts relied upon in rendering a decision, and explain the justification for the decision based on the criteria, standards, and facts set forth, as required in Section 18.390.050.E of the Tigard Development Code, and

**WHEREAS**, the City Council reviewed the staff report and found that, as conditioned, the proposed development would be in compliance with all applicable decision criteria,

**NOW, THEREFORE, BE IT RESOLVED** by the Tigard City Council that:

**SECTION 1:** The Tigard City Council hereby approves SUB2001-00001/PDR2001-00001/ZON2001-00002/SLR2001-00003/VAR2001-00002 – BLUE HERON PARK SUBDIVISION, subject to conditions of approval, based on the information provided in the public record. The Final Order approved by the City Council is hereby made a part of the permanent record.

**PASSED:** This \_\_\_\_\_ day of \_\_\_\_\_ 2001.

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Mayor - City of Tigard

**ATTEST:**

---

City Recorder - City of Tigard

CITY OF TIGARD, OREGON

RESOLUTION NO. 01-

**A RESOLUTION ADOPTING THE FINAL ORDER FOR A SUBDIVISION, PLANNED DEVELOPMENT, ZONE CHANGE, SENSITIVE LANDS REVIEW, AND VARIANCE (BLUE HERON PARK SUBDIVISION - SUB2001-00001/PDR2001-00001/ZON2001-00002/SLR2001-00003/VAR2001-00002).**

---

**WHEREAS**, the Planning Commission reviewed this case at its meeting of June 11, 2001; and

**WHEREAS**, the Planning Commission denied the application (Planning Commission Final Order No. 01-02 PC); and

**WHEREAS**, the applicants submitted an appeal of the Planning Commission's denial of the application on June 22, 2001, and

**WHEREAS**, a new public hearing with new testimony was provided on July 24, 2001; and

**WHEREAS**, the City Council determined that \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WHEREAS**, the City Council \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOW, THEREFORE, BE IT RESOLVED** by the Tigard City Council that:

**SECTION 1:** The Tigard City Council hereby denies SUB2001-00001/PDR2001-00001/ZON2001-00002/SLR2001-00003/VAR2001-00002 – BLUE HERON PARK SUBDIVISION, based on the preceding findings. The Final Order approved by the City Council is hereby made a part of the permanent record.

**PASSED:** This \_\_\_\_\_ day of \_\_\_\_\_ 2001.

\_\_\_\_\_  
Mayor - City of Tigard

**ATTEST:**

\_\_\_\_\_  
City Recorder - City of Tigard



City of Tigard  
Community  
Development  
Shaping A Better  
Community

# MEMORANDUM

## CITY OF TIGARD, OREGON

13125 SW Hall Boulevard  
Tigard, Oregon 97223  
(503) 639-4171  
Fax 684-7297

**TO:** City Council

**FROM:** Kevin Young, Associate Planner

**DATE:** July 10, 2001

**SUBJECT:** Appeal of the Planning Commission's denial of the Blue Heron Park Subdivision

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On June 11, 2001, the Tigard Planning Commission held a public hearing to consider an application for an 18-lot subdivision and planned development on 4.15 acres of land. The property is located at 12450 SW Walnut Street, opposite the intersection of 124<sup>th</sup> Avenue and Walnut Street. The development proposal is for attached, single family homes on individual lots. Through the flexibility allowed under planned development regulations, the size of individual lots averages approximately 3,800 square feet. Development is to be clustered on the west side of the development site, allowing for the preservation and enhancement of the pond, wetland, and stream area on the eastern portion of the property. A sensitive lands review is required for the development due to the presence of steep slopes, a wetland, and a natural drainageway on the site.

The Planning Commission denied the application with a finding that the development would adversely affect the welfare of the City, based on the testimony heard at the hearing, opinions expressed by the Planning Commissioners during deliberations, and answers to questions from staff. In appealing the decision, the appellants note that Section 18.390.050.E of the Tigard Development Code requires the Planning Commission to make findings and conclusions "based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering a decision and explains the justification for the decision based on the criteria, standards, and facts set forth." The appellants state that the Planning Commission's decision "is not based on findings of fact or evidence related to specific code criteria, is not accompanied by a brief statement explaining the criteria and standards considered relevant to the decision and does not state the facts relied upon in rendering the decision nor explain the justification for the decision based on criteria, standards, or facts."

Staff has analyzed the applicable criteria and determined that there is no specific criterion regarding the effect of development on the welfare of the City. A number of criteria certainly have a bearing on the welfare of the City, but none are written this broadly. The purpose statement for subdivisions (Section 18.430.010.A of the Tigard Development Code) includes a statement that the provisions of the chapter are intended to “promote the public health, safety, and general welfare.” However, purpose statements are not applicable decision criteria. In some circumstances, where guidance is sought concerning the intent of decision criteria that are unclear, purpose statements may be referenced to indicate general policy direction. This is not the case in this instance.

Staff’s analysis of the proceeding did not find any factual basis for the denial. Although members of the Planning Commission objected to the density of the development, staff finds that the project is within the acceptable density range. Approval of the requested density bonuses is discretionary. The applicant has requested density bonuses that would allow the placement of two additional dwelling units on the site, thereby increasing the density of the project from 16 to 18 dwelling units. It is staff’s opinion that the proposed design merits granting of the density bonuses; however, if the Council determines that the amenities and tree preservation measures proposed by the applicant do not merit the requested density bonuses, the Council may deny the density bonuses without denying the project. Based on this analysis, and the attached staff report, which analyzes the compliance of the proposed development with applicable decision criteria, staff recommends that the Council reverse the Planning Commission’s denial of the subdivision application, and approve the proposal, subject to the recommended conditions of approval in the staff report.



# APPEAL FILING FORM FOR LAND USE DECISIONS TYPE II

13125 SW Hall Blvd., Tigard, OR 97223 (503) 639-4171 FAX: (503) 684-7297

The City of Tigard supports the citizen's right to participate in local government. Tigard's Land Use Code, therefore, sets out specific requirements for filing appeals on certain land use decisions.

The following form has been developed to assist you in filing an appeal of a land use decision in proper form. To determine what filing fees will be required or to answer any questions you have regarding the appeal process, please contact the Planning Division or the City Recorder at the phone/fax listed at the top of this form.

## GENERAL INFORMATION

Property Address/Location(s) and Name(s) of the Application Being

Appealed: 12450 SW Walnut St.

Blue Heron Park

How Do You Qualify As A Party?: Applicant and

Applicants Representative

Matt Sprague/Urban Development

Appellant's Address: 9600 SW Oak St. Suite 290

City/State: Portland / OR Zip: 97140

Day Phone Where You Can Be Reached: (503) 452-8003

Scheduled Date Decision Is To Be Final: June 29, 2001

Date Notice of Final Decision Was Given: June 14, 2001

Specific Grounds For Appeal or Review: See attached

"Appeal Purpose and Information"

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

FOR STAFF USE ONLY	
Case No. (s)	<u>Blue Heron Subdivision</u> <u>SUB0001-00001</u>
Case Name(s)	_____
Receipt No.	<u>2001-2598</u>
Application Accepted By:	<u>KJP</u>
Date:	<u>6/22/01</u>
Approved As To Form By:	_____
Date:	_____
Denied As To Form By:	_____
Date:	_____
Rev: 10/3/96 t:\curpin\masters\appeal.doc	

## REQUIRED SUBMITTAL ELEMENTS

✓ Application Elements Submitted:

☒ Appeal Filing Form (completed)

☒ Filing Fee (based on criteria below)

- |   |            |
|---|------------|
| > Director's Decision to Hearings Officer               | \$ 250.00  |
| > Expedited Review (deposit)                            | \$ 300.00  |
| > Hearing Referee                                       | \$ 500.00  |
| > Planning Commission/Hearing's Officer to City Council | \$1,745.00 |
| ( + Transcript )  |            |

Signature(s) of Appellant(s):

(VDC)  
Matt Sprague (AEI)

## **APPEAL PURPOSE & INFORMATION**

The Planning Commission denied the Blue Heron Park project on a 4 to 3 vote based on the finding that the development would adversely effect the welfare of the City. After that vote, a minority opinion was expressed by a commissioner who strongly disagreed with the denial and was of the opinion that the project would not adversely effect the welfare of the City.

In making their decision, the Planning Commission, according to City Code Chapter 18.390.050 E., must make findings and conclusions *“based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards, and facts set forth.”*

The specific grounds for this appeal are as follows. The Planning Commission’s Conclusion is not based on findings of fact or evidence related to specific Code criteria, is not accompanied by a brief statement explaining the criteria and standards considered relevant to the decision and does not state the facts relied upon in rendering the decision nor explain the justification for the decision based on criteria, standards or facts.

120 DAYS = 8/28/2001

Attachment 4



CITY OF TIGARD  
Community Development  
Shaping A Better Community

**CITY OF TIGARD**

Washington County, Oregon

**NOTICE OF FINAL ORDER NO. 2001-02 PC BY THE PLANNING COMMISSION**

Case Numbers:	SUBDIVISION (SUB) 2001-00001 PLANNED DEVELOPMENT REVIEW (PDR) 2001-00001 ZONE CHANGE (ZON) 2001-00002 SENSITIVE LANDS REVIEW (SLR) 2001-00003 VARIANCE (VAR) 2001-00002
Case Name:	BLUE HERON PARK SUBDIVISION
Name of Owner:	Erroyl Hawley
Name of Applicant:	Urban Development Corp. - Attn: Al Jeck / Applicant's Rep.: Matthew Sprague
Address of Applicant:	9600 SW Oak Street, Suite 230 Portland, Oregon 97223
Address of Property:	12450 SW Walnut Street (S. of Walnut St., opposite 124 <sup>th</sup> Ave., west of 121 <sup>st</sup> Ave.)
Tax Map/Lot Nos.:	Washington County Tax Assessor's Map No. 2S103BC, Tax Lot 3900.

A FINAL ORDER INCORPORATING THE FACTS, FINDINGS AND CONCLUSIONS **DENYING** A REQUEST FOR SUBDIVISION, PLANNED DEVELOPMENT, ZONE CHANGE, SENSITIVE LANDS REVIEW, AND VARIANCE. THE CITY OF TIGARD PLANNING COMMISSION HAS REVIEWED THE APPLICANT'S PLANS, NARRATIVE, MATERIALS, COMMENTS OF REVIEWING AGENCIES, THE PLANNING DIVISION'S STAFF REPORT AND RECOMMENDATIONS FOR THE APPLICATION DESCRIBED IN FURTHER DETAIL IN THE STAFF REPORT. THE PLANNING COMMISSION HELD A PUBLIC HEARING ON **JUNE 11, 2001** TO RECEIVE TESTIMONY REGARDING THIS APPLICATION. THIS DECISION HAS BEEN BASED ON THE FACTS, FINDINGS AND CONCLUSIONS CONTAINED WITHIN THIS FINAL ORDER.

**Request:** ➤ Approval of an 18-lot subdivision on 4.15 acres. The lots are to be developed with attached single-family homes. Lot sizes within the development average just over 3,800 square feet. Development is to be clustered on the west side of the development site, allowing for the preservation and enhancement of the pond, wetland, and stream area on the eastern portion of the property. A sensitive lands review is required for the development due to the presence of steep slopes, a wetland, and a natural drainageway on the site.

Zoning Designation: R-4.5: Low-Density Residential District. Applicable Review Criteria: Community Development Code Chapters: 18.350, 18.370, 18.380, 18.390, 18.430, 18.510, 18.705, 18.715, 18.720, 18.725, 18.730, 18.745, 18.765, 18.775, 18.790, 18.795, 18.797 and 18.810.

**Action:** ➤ ☐ Approval as Requested ☐ Approval with Conditions ☒ Denial

**Notice:** Notice was published in the newspaper, posted at City Hall and mailed to:

☒ Owners of Record Within the Required Distance ☒ Affected Government Agencies  
☒ The Affected Citizen Involvement Team Facilitator ☒ The Applicants and Owners

The adopted findings of fact and decision can be obtained from the Planning Division/Community Development Department at the City of Tigard City Hall.

**Final Decision:**

**THIS DECISION IS FINAL ON JUNE 14, 2001 AND BECOMES  
EFFECTIVE ON JUNE 29, 2001 UNLESS AN APPEAL IS FILED.**

**Appeal:**

The decision of the Review Authority is final for purposes of appeal on the date that it is mailed. Any party with standing as provided in Section 18.390.040.G.1. may appeal this decision in accordance with Section 18.390.040.G.2. of the Tigard Community Development Code which provides that a written appeal together with the required fee shall be filed with the Director within ten (10) business days of the date the notice of the decision was mailed. The appeal fee schedule and forms are available from the Planning Division of Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon 97223.

**THE DEADLINE FOR FILING AN APPEAL IS 5:00 PM ON JUNE 28, 2001.**

**Questions:** If you have any questions, please call the City of Tigard Planning Division at (503) 639-4171.



**NOTICE OF FINAL ORDER NO. 2001-02 PC  
BY THE PLANNING COMMISSION  
FOR THE CITY OF TIGARD, OREGON**



**120 DAYS = 8/28/2001**

**SECTION I. APPLICATION SUMMARY**

<b>FILE NAME:</b>	<b>BLUE HERON PARK SUBDIVISION</b>	
<b>CASE NOS.:</b>	<b>Subdivision (SUB)</b>	<b>SUB2001-00001</b>
	Zone Change (ZON)	ZON2001-00002
	Planned Development Review (PDR)	PDR2001-00001
	Sensitive Lands Review (SLR)	SLR2001-00003
	Adjustment (VAR)	VAR2001-00002
<b>PROPOSAL:</b>	<p>Approval of an 18-lot subdivision on 4.15 acres. The lots are to be developed with attached single-family homes. Lot sizes within the development average just over 3,800 square feet. Development is to be clustered on the west side of the development site, allowing for the preservation and enhancement of the pond, wetland, and stream area on the eastern portion of the property. A sensitive lands review is required for the development due to the presence of steep slopes, a wetland, and a natural drainageway on the site. The applicant has also requested an adjustment to the maximum allowed cul-de-sac length to allow for a cul-de-sac length of approximately 500 feet.</p>	
<b>APPLICANT:</b>	Urban Development Corporation Attn: Al Jeck 9600 SW Oak Street, Suite 230 Portland, OR 97223	<b>OWNER:</b> Erroyl Hawley 9055 SW 91 <sup>st</sup> , #7 Portland, OR 97223
<b>APPLICANT'S REP:</b>	Alpha Engineering, Inc. Matthew Sprague, Project Planner 9600 SW Oak Street, Suite 230 Portland, OR 97223	
<b>ZONING DESIGNATION:</b>	<p>R-4.5: Low-Density Residential District. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally.</p>	
<b>LOCATION:</b>	<p>12450 SW Walnut Street; WCTM 2S103BC, Tax Lot 3900. The project site is located on the south side of SW Walnut Street, opposite of SW 124<sup>th</sup> Avenue and west of SW 121<sup>st</sup> Avenue.</p>	
<b>APPLICABLE REVIEW CRITERIA:</b>	<p>Community Development Code Chapters: 18.350, 18.370, 18.380, 18.390, 18.430, 18.510, 18.705, 18.715, 18.720, 18.725, 18.730, 18.745, 18.765, 18.775, 18.790, 18.795, 18.797 and 18.810.</p>	

**SECTION II. DECISION**

Notice is hereby given that the City of Tigard Planning Commission has **DENIED** the above request based on the finding that the development would adversely effect the welfare of the City.

## CONDITIONS OF APPROVAL

### THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO COMMENCING ANY ONSITE IMPROVEMENTS, INCLUDING GRADING, EXCAVATION AND/OR FILL ACTIVITIES:

**Submit to the Engineering Department (Brian Rager, 639-4171, ext. 318) for review and approval:**

1. Prior to commencing onsite improvements, a public improvement permit and compliance agreement is required for this project to cover all public improvements, including the construction of the private street and storm drainage facilities, and any other work in the public right-of-way. Seven (7) sets of detailed public improvement plans shall be submitted for review to the Engineering Department. NOTE: these plans are in addition to any drawings required by the Building Division and should only include sheets relevant to public improvements. Public improvement plans shall conform to City of Tigard Public Improvement Design Standards, which are available at City Hall and the City's web page ([www.ci.tigard.or.us](http://www.ci.tigard.or.us)).
2. As a part of the public improvement plan submittal, the Engineering Department shall be provided with the exact legal name, address and telephone number of the individual or corporate entity who will be responsible for executing the compliance agreement (if one is required) and providing the financial assurance for the public improvements. For example, specify if the entity is a corporation, limited partnership, LLC, etc. Also specify the state within which the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information to the Engineering Department will delay processing of project documents.
3. The applicant shall provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the public improvement construction phase. All construction vehicle parking shall be provided on-site. No construction vehicles or equipment will be permitted to park on the adjoining residential public streets. Construction vehicles include the vehicles of any contractor or subcontractor involved in the construction of site improvements or buildings proposed by this application, and shall include the vehicles of all suppliers and employees associated with the project.
4. The applicant's construction plans shall show a new private street entrance from SW Walnut Street. The entrance shall be established with a standard commercial driveway apron.
5. The applicant's construction drawings shall show that the pavement and rock section for the proposed private street shall meet the City's public street standard for a local residential street.
6. The applicant's construction plans shall indicate that they will construct a pedestrian/bike path to the western boundary of this site. The pathway shall be lighted, and shall be placed in a tract to be dedicated to the City on the final plat. The sidewalk portion along the private street shall be five feet in width. The portion from the end of the private street to the western property line shall be eight feet in width.
7. The applicant's construction plans shall show "No Parking" signs placed along both sides of the new private street.
8. The applicant's construction plans shall show the new 8-inch public sanitary sewer line extending to the western boundary of this site.
9. The applicant's construction plans shall provide for back yard private storm lines to pick up any flows that may develop from existing parcels uphill of this site.
10. Prior to construction, the applicant shall demonstrate that their construction plans meet the pertinent requirements from their USA Service Provider Letter.
11. The applicant's construction plans shall indicate they will remove necessary vegetation in the right-of-way of SW Walnut Street, to improve the sight distance east of the new private street entrance.
12. The applicant's construction plans shall show an advanced intersection sign (MUTCD W2-1) to alert westbound motorists of the intersection at SW 124<sup>th</sup> Avenue and the new private street.

13. Any extension of public water lines shall be shown on the proposed public improvement construction drawings and shall be reviewed and approved by the City's Water Department, as a part of the Engineering Department plan review. **NOTE:** An estimated 12% of the water system costs must be on deposit with the Water Department prior to approval of the public improvement plans from the Engineering Department and construction of public water lines.
14. Prior to construction, the Public Works Department shall review and approve the applicant's water distribution plan. The Public Works Department may require a master meter with backflow protection to be installed at the private street entrance at SW Walnut Street. With that scenario, the onsite water line(s) and individual meters would be private.
15. Final design plans and calculations for the proposed private water quality facility shall be submitted to the Engineering Department (Brian Rager) as a part of the public improvement plans. Included with the plans shall be a proposed landscape plan and maintenance plan.
16. An erosion control plan shall be provided as part of the public improvement drawings. The plan shall conform to the "Erosion Prevention and Sediment Control Design and Planning Manual, December 2000 edition."
17. A final grading plan shall be submitted showing the existing and proposed contours. The plan shall detail the provisions for surface drainage of all lots, and show that they will be graded to insure that surface drainage is directed to the street or a public storm drainage system approved by the Engineering Department. For situations where the back portions of lots drain away from a street and toward adjacent lots, appropriate private storm drainage lines shall be provided to sufficiently contain and convey runoff from each lot.
18. The applicant shall incorporate the recommendations from the submitted geotechnical report by GeoPacific Engineering, dated March 6, 2001, into the final grading plan. The geotechnical engineer shall be employed by the applicant throughout the entire construction period to ensure that all grading, including cuts and fills, are constructed in accordance with the approved plan and Appendix Chapter 33 of the UBC. A final construction supervision report shall be filed with the Engineering Department prior to issuance of building permits.
19. The final construction plans shall be signed by the geotechnical engineer to ensure that they have reviewed and approved the plans. The geotechnical engineer shall also sign the as-built grading plan at the end of the project.
20. The design engineer shall indicate, on the grading plan, which lots will have natural slopes between 10% and 20%, as well as lots that will have natural slopes in excess of 20%. This information will be necessary in determining if special grading inspections and/or permits will be necessary when the lots develop.

**Submit to the Planning Department (Kevin Young, 639-4171, ext. 407) for review and approval:**

21. The applicant shall use appropriate Best Management Practices for Erosion Control, as required in the USA service provider letter.
22. The applicant shall be required to meet all conditions of the USA service provider letter, at the appropriate stages of the development process.
23. The applicant shall redesign the proposed stormwater facility so that it does not result in grading or filling within the wetland areas on the site. The stormwater facility may be located within the 50-foot vegetated corridor, but may not be located within the wetland or drainageway.
24. The applicant shall abide by all Tree Protection Standards included in the arborist's report prepared by Walter H. Knapp, dated February 20, 2001. Required tree preservation fencing shall be installed prior to site grading or clearing and shall remain in place until final occupancy permits are issued for the proposed homes.
25. The applicant shall revise their erosion control plan to address and include all requirements noted in Sections 18.797.080 (Subsections J and K).
26. No site grading or clearing will be allowed until all necessary erosion control measures are in place.

27. The applicant shall prepare tree mitigation materials to indicate the total number of caliper inches of trees to be removed. The applicant shall indicate how they intend to mitigate for 50% of the total number of caliper inches to be removed.
28. The applicant shall submit a bond to provide for the planting of the required caliper inches of trees. An approximate figure for the cost of purchasing, transporting, planting, and maintaining a 2-inch caliper tree is \$200. The applicant shall specify how they propose to mitigate for the required caliper inches to be mitigated. All mitigation trees shall be a minimum of 2-inch caliper size. If the applicant intends to mitigate on-site by planting trees, a revised landscaping plan shall be required that indicates which trees are to be counted towards the mitigation total. Street trees and trees required to meet the buffer and parking lot tree requirements shall not be counted toward the mitigation trees.
29. The applicant shall revise the tree preservation plan to indicate which trees to be removed, if any, are located within sensitive land areas on the site. If trees of 12 inch caliper size or greater are to be removed from sensitive land areas, a tree removal permit shall be required to authorize their removal.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED  
PRIOR TO APPROVAL OF THE FINAL PLAT:**

**Submit to the Engineering Department (Brian Rager, 639-4171, ext. 318) for review and approval:**

30. Prior to approval of the final plat, the applicant shall pay an addressing fee in the amount of \$540.00. (STAFF CONTACT: Kit Church, Engineering).
31. The face of the final plat shall show a right-of-way dedication for SW Walnut Street to provide a total of 33 feet from the centerline.
32. The applicant shall cause a statement to be placed on the final plat to indicate that the proposed private street will be jointly owned and maintained by the private property owners who abut and take access from it.
33. Prior to approval of the final plat, the applicant shall prepare Conditions, Covenants and Restrictions (CC&R's) for this project, to be recorded with the final plat, that clearly lays out a maintenance plan and agreement for the proposed private street. The CC&R's shall obligate the private property owners within the subdivision to create a homeowner's association to ensure regulation of maintenance for the street. The applicant shall submit a copy of the CC&R's to the Engineering Department (Brian Rager) prior to approval of the final plat.
34. Prior to approval of the final plat, the applicant shall demonstrate that they have formed and incorporated a homeowner's association.
35. The applicant shall either place the existing overhead utility lines along SW Walnut Street underground as a part of this project, or they shall pay the fee in-lieu of undergrounding. The fee shall be calculated by the frontage of the site that is parallel to the utility lines and will be \$ 27.50 per lineal foot. If the fee option is chosen, the amount will be \$ 1,238.00 and it shall be paid prior to approval of the final plat.
36. The applicant shall cause a statement to be placed on the final plat to indicate that the proposed private water quality/detention facility will be jointly owned and maintained by the developer or by the future homeowners within the subdivision.
37. Prior to approval of the final plat, the applicant shall prepare Conditions, Covenants and Restrictions (CC&R's) for this project, to be recorded with the final plat, that clearly lays out a maintenance plan and agreement for the proposed private water quality/detention facility. The CC&R's shall obligate the private property owners within the subdivision to create a homeowner's association to ensure regulation of maintenance for the facility. The applicant shall submit a copy of the CC&R's to the Engineering Department (Brian Rager) prior to approval of the final plat.
38. The applicant's final plat shall contain State Plane Coordinates on two monuments with a tie to the City's global positioning system (GPS) geodetic control network. These monuments shall be on the same line and shall be of the same precision as required for the subdivision plat boundary. Along with the coordinates, the plat shall contain the scale factor to convert ground

measurements to grid measurements and the angle from north to grid north. These coordinates can be established by:

- ◆ GPS tie networked to the City's GPS survey.
- ◆ By random traverse using conventional surveying methods.

39. Final Plat Application Submission Requirements:

- A. Submit for City review four (4) paper copies of the final plat prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.
- B. The final plat and data or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.05), Washington County, and by the City of Tigard.
- C. The right-of-way dedication for SW Walnut Street shall be made on the final plat.
- D. **NOTE:** Washington County will not begin their review of the final plat until they receive a letter from the City Engineering Department indicating: 1) that the City has reviewed the final plat and submitted comments to the applicant's surveyor, and 2) that the applicant has either completed any public improvements associated with the project, or has at least obtained the necessary public improvement permit from the City to complete the work.
- E. Once the City and County have reviewed the final plat, submit two mylar copies of the final plat for City Engineer's signature.

**Submit to the Planning Department (Kevin Young, 639-4171, ext. 407) for review and approval:**

- 40. The applicant shall provide a landscape buffer in compliance with the requirements of the landscape buffer C standard in Table 18.745.2 along the western edge of Lot 13. The applicant shall revise the landscape plan to comply with this requirement.
- 41. Prior to final subdivision plat approval, the applicant shall convey title for the proposed open space area in accordance with the requirements of Section 18.350.110.A.2.b of the Tigard Development Code.
- 42. Prior to approval of the final plat, the applicant shall prepare Conditions, Covenants, and Restrictions (CC & R's) for this project, to be recorded with the final plat, that clearly set out the requirement that native plantings that do not survive the first two years must be replaced, and that replacement plants must be maintained for two years following replacement. The CC & R's shall obligate the private property owners within the subdivision to create a homeowner's association to ensure that the plantings are maintained. The applicant shall submit a copy of the CC & R's to the Planning Department (Kevin Young) prior to approval of the final plat.
- 43. Per the requirements of Section 18.790.040.B, the applicant shall record a deed restriction for all trees designated to be preserved to the effect that such tree may be removed only if the tree dies or is hazardous according to a certified arborist. A copy of the deed restriction documentation shall be reviewed and approved by the City prior to final plat approval.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED  
PRIOR TO ISSUANCE OF BUILDING PERMITS:**

**Submit to the Engineering Department (Brian Rager, 639-4171, ext. 318) for review and approval:**

- 44. Prior to issuance of building permits, the applicant shall provide the Engineering Department with a mylar copy of the recorded final plat.
- 45. The City Engineer may determine the necessity for, and require submittal and approval of, a construction access and parking plan for the home building phase. If the City Engineer deems such a plan necessary, the applicant shall provide the plan prior to issuance of building permits.
- 46. Prior to issuance of building permits within the subdivision, the City Engineer shall deem the public improvements substantially complete. Substantial completion shall be when: 1) all utilities are installed and inspected for compliance, including franchise utilities, 2) all local residential streets have at least one lift of asphalt, 3) any off-site street and/or utility improvements are substantially completed, and 4) all street lights are installed and ready to be energized. (NOTE: model home permits may be issued by the City apart from this condition, and in accordance with the City's model home policy).



**Submit to the Planning Department (Kevin Young, 639-4171, ext. 407) for review and approval:**

47. Prior to foundation inspections for individual homes, erosion control measures shall be in place.

**THE FOLLOWING CONDITIONS MUST BE RESOLVED  
PRIOR TO ISSUANCE OF FINAL OCCUPANCY PERMITS:**

**Submit to the Planning Department (Kevin Young, 639-4171, ext. 407) for review and approval:**

48. The applicant shall re-vegetate all affected areas in compliance with Section 18.745.060 after construction activities are completed and prior to removal of erosion control measures.

**IN ADDITION, THE APPLICANT SHOULD BE AWARE OF THE FOLLOWING SECTIONS  
OF THE COMMUNITY DEVELOPMENT CODE; THIS IS NOT AN EXCLUSIVE LIST:**

**18.430.080 Improvement Agreement:**

Before City approval is certified on the final plat, and before approved construction plans are issued by the City, the Subdivider shall:

1. Execute and file an agreement with the City Engineer specifying the period within which all required improvements and repairs shall be completed; and
2. Include in the agreement provisions that if such work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the subdivider.

The agreement shall stipulate improvement fees and deposits as may be required to be paid and may also provide for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.

**18.430.090 Bond:**

As required by Section 18.430.080, the subdivider shall file with the agreement an assurance of performance supported by one of the following:

1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the State of Oregon;
2. A surety bond executed by a surety company authorized to transact business in the State of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or
3. Cash.

The subdivider shall furnish to the City Engineer an itemized improvement estimate, certified by a registered civil engineer, to assist the City Engineer in calculating the amount of the performance assurance.

The subdivider shall not cause termination of nor allow expiration of said guarantee without having first secured written authorization from the City.

**18.430.100 Filing and Recording:**

Within 60 days of the City review and approval, the applicant shall submit the final plat to the County for signatures of County officials as required by ORS Chapter 92.

Upon final recording with the County, the applicant shall submit to the City a mylar copy of the recorded final plat.

**18.430.070 Final Plat Application Submission Requirements:**

Three copies of the subdivision plat prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.

The subdivision plat and data or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.05), Washington County, and by the City of Tigard.

**STREET CENTERLINE MONUMENTATION SHALL BE PROVIDED AS FOLLOWS:**

Centerline Monumentation

In accordance with Oregon Revised Statutes 92.060, subsection (2), the centerline of all street and roadway rights-of-way shall be monumented before the City accepts a street improvement.

The following centerline monuments shall be set:

1. All centerline-centerline intersection points;
2. All cul-de-sac center points; and
3. Curve points, beginning and ending points (PC's and PT's).

All centerline monuments shall be set during the first lift of pavement.

Monument Boxes Required

Monument boxes conforming to City standards will be required around all centerline intersection points, cul-de-sac center points, and curve points.

The tops of all monument boxes shall be set to finish pavement grade.

**18.810 Street & Utility Improvement Standards:**

18.810.120 Utilities

All utility lines including, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface-mounted transformers, surface-mounted connection boxes, and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above.

18.810.130 Cash or Bond Required

All improvements installed by the subdivider shall be guaranteed as to workmanship and material for a period of one year following acceptance by the City.

Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the City Engineer.

The cash or bond shall comply with the terms and conditions of Section 18.810.180.

18.810.150 Installation Prerequisite

No land division improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting or other requirements shall be undertaken except after the plans therefor have been approved by the City, permit fee paid and permit issued.

18.810.180 Notice to City Required

Work shall not begin until the City has been notified in advance.

If work is discontinued for any reason, it shall not be resumed until the City is notified.

18.810.200 Engineer's Certification

The land divider's engineer shall provide written certification of a form provided by the City that all improvements, workmanship and materials are in accord with current and standard engineering and construction practices, and are of high grade, prior to the City acceptance of the subdivision's improvements or any portion thereof for operation and maintenance.

**THIS APPROVAL SHALL BE VALID FOR 18 MONTHS FROM THE  
EFFECTIVE DATE OF THE PLANNING COMMISSION'S DECISION.**

### **SECTION III. BACKGROUND INFORMATION**

#### **Site History:**

The property currently contains a single-family residence and outbuildings. All buildings currently on site are proposed to be removed. A search of city records found no previous land use cases associated with this parcel.

#### **Vicinity Information:**

The site is located on the south side of SW Walnut Street, west of SW 121<sup>st</sup> Avenue across from SW 124<sup>th</sup> Avenue. Access to the site occurs via a 40-foot-wide "panhandle" from Walnut to the main body of the parcel. The panhandle is approximately 115 feet long. The site is bordered by underdeveloped property to the west and south, and by the Fyrestone subdivision to the east. Little development opportunity exists to the north, where single-family homes are currently developed along Walnut Street.

#### **Site Information:**

The subject site consists of approximately 4.15 acres and is currently zoned R-4.5. The western half of the site contains a creek, pond (heavily silted in), and associated wetlands. In general, the site slopes downhill from west to east reaching the bottom of a drainageway, which flows from south to north. Slopes on the east side of the drainageway are uphill from west to east. Slopes on the property range from 2% to 29%, with the western portion, where development is proposed, having the more gentle slopes.

### **SECTION IV. DECISION MAKING PROCEDURES, PERMITS AND USE**

#### **Use Classification: Section 18.130.020**

**Lists the Use Categories.**

The applicant is proposing to construct 18 attached single-family dwelling units each on separate lots. This use is classified in Code Chapter 18.130 (Use Classifications) as Household Living. The site is located within the R-4.5, Low Density Residential District. Table 18.510.1 lists Household Living as a permitted use in the R-4.5 zone. Table 18.510.1 also states that attached single units are permitted in R-4.5 zones only as part of an approved planned development. The applicant has applied for planned development approval in conjunction with the subdivision.

#### **Summary Land Use Permits: Chapter 18.310**

**Defines the decision-making type to which the land-use application is assigned.**

This is a Planned Development/Subdivision, which is defined as a Type III-PC Application.

#### **Decision Making Procedures: Chapter 18.390**

**Describes the decision-making procedures.**

Type III procedures apply to quasi-judicial permits and actions that contain predominantly discretionary approval criteria. Type III-PC actions are decided by the Planning Commission with appeals to or review by the City Council.

### **SECTION V. NEIGHBORHOOD COMMENTS**

The Tigard Community Development Code requires that property owners within 500 feet of the subject site be notified of the proposal, and be given an opportunity for written comments and/or oral testimony prior to a decision being made. In addition, the applicant is required to post the site with notice of the public hearing. Staff has verified that the site is posted. Other than a request to be notified when the staff report is completed, no comments have been received from neighbors or other interested parties.



## **SECTION VI. APPLICABLE REVIEW CRITERIA AND FINDINGS**

A zone change is necessary to add a Planned Development overlay designation to the subject site, per the requirements of Section 18.350.020. The requested zone change is classified as a quasi-judicial zoning map amendment. The requested zone change does not require a comprehensive plan map amendment, and therefore may be determined by the Planning Commission through the Type III-PC decision process.

### **A. Zone Change: Standards for Making Quasi-Judicial Decisions: Chapter 18.380**

A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial zoning map amendment shall be based on all of the following standards:

#### **1 Demonstration of compliance with all applicable comprehensive plan policies and map designations;**

The proposed change is consistent with the comprehensive plan policies and map designations because the comprehensive plan specifically recommends the use of the planned development process for development adjacent to sensitive land areas. Policy 3.2.4 of the City of Tigard Comprehensive Plan states, in part, that "Development on property adjacent to significant wetlands shall be allowed under the planned development section of the code."

#### **2. Demonstration of compliance with all applicable standards of any provision of this code or other applicable implementing ordinance; and**

The proposed zone change is in compliance with the requirements for planned development (PD) in Section 18.350.020, which require the establishment of a PD overlay zone. The proposed zone change is in compliance with all other applicable requirements.

#### **3. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or zoning map as it relates to the property which is the subject of the development application.**

The developer has recognized that flexibility will be required to develop the subject parcel, due to the presence of sensitive land areas on the subject site. The PD process provides the needed flexibility to allow development to be clustered on the developable portion of the property. The base R-4.5 zoning was applied to a large area, which included this site. The adoption of the PD overlay zone will allow for a refinement of applicable zoning requirements based on the unique site constraints of the development site.

Based on these findings, staff recommends approval of the requested planned development overlay zone for the parcel identified as WCTM 2S103BC, Tax Lot 3900.

## **B. GENERAL PLANNED DEVELOPMENT STANDARDS**

The applicant has requested a Planned Development (PD) overlay zone change for the subject property. The PD overlay requires developers to follow the Planned Development process for any proposal on affected sites. The Planned Development chapter provides for flexibility in development design and allows deviation from certain standards of the base zone. The following addresses compliance with the process and applicable base zone standards.

### **The Planned Development Process:**

**Section 18.350.030 states that there are three elements to the planned development approval process, as follows:**

- ♦ **The approval of the planned development overlay zone;**
- ♦ **The approval of the planned development concept plan; and**
- ♦ **The approval of the detailed development plan.**

This application is for all three elements of the planned development process, overlay zone, concept plan, and detailed plan.

### **Applicability Of The Base Zone Development Standards:**

**Section 18.350.070 requires compliance to specific development standards: The provisions of the base zone are applicable as follows:**

1. **Lot dimensional standards:** The minimum lot size, lot depth and lot width standards shall not apply except as related to the density computation under Chapter 18.715;

The proposed lots utilize allowed flexibility in the lot dimensional standards. As discussed later in this report, the project complies with density requirements.

2. **Site coverage:** The site coverage provisions of the base zone shall apply;

There is no site coverage requirement in the R-4.5 zone; therefore, this criterion is not applicable.

3. **Building height:** The building height provisions shall not apply; and

Although the height restriction does not apply, all proposed homes will be less than the 30-foot maximum height allowed in the R-4.5 zone.

4. **Structure setback provisions:**

- a. **Front yard and rear yard setbacks for structures on the perimeter of the project shall be the same as that required by the base zone unless otherwise provided by Chapter 18.360;**

Buildings on Lots 7-12 maintain the required 15-foot rear yard setback in the R-4.5 zone. All other proposed homes will maintain at least a 10-foot side yard setback along the perimeter of the project. This is twice the required 5-foot side yard setback required in the R-4.5 zone.

- b. **The side yard setback provisions shall not apply except that all detached structures shall meet the Uniform Building Code (UBC) requirements for fire walls;**

The applicant has shown side yard setbacks within the project of 4 feet, which is in excess of the UBC setback requirement of 3 feet from the property line. The applicant has also shown 10-foot street side setbacks for homes on corner lots within the project. This setback complies with UBC standards as well.

- c. **Front yard and rear yard setback requirements in the base zone setback shall not apply to structures on the interior of the project except that: (1) A minimum front yard setback of 20 feet is required for any garage structure which opens facing a street; (2) A minimum front yard setback of eight feet is required for any garage opening for an attached single-family dwelling facing a private street as long as the required off-street parking spaces are provided**

All homes will be provided with a garage setback of at least 20 feet, which is in excess of the minimum requirement from a private street.

**Other provisions of the base zone:**

**All other provisions of the base zone shall apply except as modified by this chapter.**

Any additional provisions of the base zone are discussed within the body of this report or will be reviewed during the building permit phase.

**FINDING:** The planned development standards, and their applicability to the base zone standards are fully met.

**PD Approval Criteria: 18.350.100**

- B. **Specific planned development approval criteria. The Commission shall make findings that the following criteria are satisfied when approving or approving with conditions, the concept plan. The Commission shall make findings that the criteria are not satisfied when denying an application.**

1. **All the provisions of the land division provisions, Chapters 18.410, 18.420 and 18.430, shall be met;**

The applicant has applied to subdivide the property concurrently with the planned development approval; therefore, all subdivision criteria must be satisfied. Following is an analysis of compliance with the subdivision approval criteria in Section 18.430:

**Preliminary Subdivision Plat Approval Criteria: 18.430.040**

**A. Approval criteria.** The Approval Authority may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

- 1. The proposed preliminary plat complies with the applicable zoning ordinance and other applicable ordinances and regulations;**

The proposed plat complies with the zoning ordinance and other applicable ordinances and regulations.

- 2. The proposed plat name is not duplicative or otherwise satisfies the provisions of ORS Chapter 92;**

The applicant has reserved the name "Blue Heron Park" with Washington County. The name reservation is good for two years and was received on January 17, 2001.

- 3. The streets and roads are laid out so as to conform to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects unless the City determines it is in the public interest to modify the street or road pattern; and**

There are no street stubs to this property from adjacent properties. The applicant has provided arguments for why public street connections are not needed to adjacent parcels from their development. These arguments are evaluated later in this report under discussion of the requested adjustment to the maximum allowed cul-de-sac length.

- 4. An explanation has been provided for all common improvements.**

The applicant has provided an explanation for all common improvements.

**FINDING:** The proposed development complies with all preliminary subdivision criteria.

**Except as noted, the provisions of the following chapters shall be utilized as guidelines. A planned development need not meet these requirements where a development plan provides alternative designs and methods, if acceptable to the Commission, that promote the purpose of this section. In each case, the applicant must provide findings to justify the modification of the standards in the chapters listed in Subsection 3 below. The developer may choose to provide or the commission may require additional open space dedication and/or provision of additional amenities, landscaping or tree planting.**

- a. Chapter 18.715, Density Computation and Limitations. Unless authorized below, density shall be governed by the density established in the underlying zoning district. The Commission may further authorize a density bonus not to exceed 10% as an incentive to increase or enhance open space, architectural character and/or site variation incorporated into the development. These factors must make a substantial contribution to objectives of the planned development. The degree of distinctiveness and the desirability of variation achieved shall govern the amount of density increase which the Commission may approve according to the following:**

- (1) A maximum of 3% is allowed for the provision of undeveloped common space;**
- (2) A maximum of 3% is allowed for landscaping; streetscape development; developed open spaces, plazas and pedestrian pathways and related amenities; recreation area development; and/or retention of existing vegetation;**
- (3) A maximum of 3% is allowed for creation of visual focal points; use of existing physical amenities such as topography, view, and sun/wind orientation;**
- (4) A maximum of 3% quality of architectural quality and style; harmonious use of materials; innovative building orientation or building grouping; and/or varied use of housing types.**

The applicant has requested density bonuses in the following amounts:

.49 dwelling units	3% for the undeveloped common space
.16 dwelling units	1% for streetscape development & the retention of existing vegetation.
.32 dwelling units	2% for the use of existing topography and views
.16 dwelling units	<u>1% for architectural quality and building grouping.</u>
1.13 dwelling units density bonus requested	

The applicant has proposed to preserve and enhance over 50,000 square feet of the site as open space in Tract C, as well as providing water quality and detention facilities in an enhanced natural area of approximately 40,000 square feet. These two open space tracts comprise approximately half of the development sites 180,774 square feet. Staff concurs with granting a 3% density bonus for their open space provision.

The applicant's private street design creates two "islands" within the street, which will contain 4 large Douglas Fir trees and a 20-inch diameter Western Red Cedar. This feature will serve to slow traffic and provide a pleasant streetscape that will be friendly to the pedestrian. Staff recommends granting the requested 1% density bonus for the proposed streetscape development.

The project's design "clusters" development on the less sensitive portion of the site and utilizes and enhances the sensitive area as an amenity for residents and neighbors. The natural topography is used to create views of the wetlands from some of the homes. Staff recommends granting the 2% density bonus for topography and views.

The proposed design nestles proposed homes into the wooded area, and orients buildings to minimize the "footprint" of development while serving to highlight the natural features of the site. The submitted building elevations will be harmonious with the natural setting of the site and will create a harmonious style within the development. Staff recommends granting the 1% density bonus for architectural quality and building grouping.

The requested density bonuses under the PD provisions do not exceed the 10% allowed (7% is requested). Granting these density bonuses would bring the allowed density on the site up to 17.31 dwelling units (16.18 + 1.13). The applicant has also requested a 4.3% density bonus for the retention of tree canopy as allowed under the provisions of Chapter 18.790. As discussed in that section, Staff recommends approval of the requested density bonus, allowing for the development of 18 dwelling units on the development site. Staff notes that if the site were not constrained with sensitive land areas, the maximum density allowed on the site would be approximately 21 dwelling units.

**b. Chapter 18.730, Exceptions to Development Standards;**

None apply. This criterion is not applicable.

**c. Chapter 18.795, Visual Clearance Areas;**

The applicant has proposed planting one Cornus Nuttallii tree within the vision clearance area to the east of the intersection of the private street and Walnut Street. The tree is not anticipated to create a vision clearance problem, but must be maintained in accordance with the requirements of Chapter 18.795.

There is an existing 36 inch diameter fir tree within the right-of-way, but outside the paved width of Walnut Street that does not currently interfere with vision clearance for the intersection. Staff believes that the proposed improvements to the intersection would not result in a vision clearance conflict. However, if the proposed improvements do result in a configuration which is determined to be unsafe, the applicant will need to remove the tree. Tree mitigation for 50% of the total caliper inches of the tree will be required if the tree is removed. Staff will determine if there is a vision clearance problem during the public improvement process.

**d. Chapter 18.745, Landscaping and Screening;**

The applicant has proposed locating street trees on the individual lots within the subdivision and along the edge of the street. Twelve Red Sunset Maples and 12 Pacific Dogwoods are proposed. These will satisfy the street tree planting requirements.

Typically, for attached single-family development abutting existing detached single-family development, buffer standard "A" is required, which constitutes a 10-foot setback covered with lawn or living groundcover. The proposed design provides a 10-foot minimum separation from building to property line. Individual yards will be landscaped with lawn or living groundcover. This standard will be met without need of a condition.

**e. Chapter 18.765, Off-street Parking and Loading Requirements;**

The applicant has proposed that all homes will be provided with 2-car garages and at least 20 feet in front of the garages, which will more than adequately provide for the 1.75 parking spaces required for attached 3-bedroom, single-family dwellings. The parking spaces comply with applicable dimensional requirements.

**f. Chapter 18.705, Access, Egress and Circulation; and**

Each dwelling will be served by a driveway that is at least the 10-foot minimum required width. The proposed private street improvements are evaluated under discussion of compliance with street and utility standards in Section 18.810 later in this report.

**g. Chapter 18.780, Signs.**

No signs are proposed in conjunction with this development. Any future signage will be subject to the sign permit requirements in Chapter 18.780.

**FINDING:** Staff finds that the proposed development is consistent with the guidelines listed in the Planned Development Section 18.350.100.B.2.

**2. In addition, the following criteria shall be met:**

**a. Relationship to the natural and physical environment:**

- (1) The streets, buildings and other site elements shall be designed and located to preserve the existing trees, topography and natural drainage to the greatest degree possible;**

The site elements are designed and located to preserve the existing trees, topography and natural drainage to the greatest degree possible. Approximately 74% of the trees on the site over 12 inches in diameter will be preserved. As discussed in the sensitive lands analysis, on-site grading is limited, given the topography of the site. The proposed development will preserve and enhance the natural drainage function on the site.

- (2) Structures located on the site shall not be in areas subject to ground slumping and sliding;**

The applicant has submitted a geotechnical report, which is discussed in more detail in the sensitive lands review analysis later in this report. The geotechnical report finds that structures may be located as proposed without danger of ground slumping or sliding, if the recommendations of the report are followed. Compliance with the recommendations of the geotechnical report is a recommended condition of the sensitive lands analysis.

- (3) There shall be adequate distance between on-site buildings and other on-site and off-site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection;**

Buildings along the perimeter of the development are at least 10 feet from the property line. The side yard setback reduction to 4 feet provides more than the 3-foot separation required for building code/fire separation purposes. The buildings are clustered in units of two, which will allow for adequate light and air circulation.

- (4) The structures shall be oriented with consideration for the sun and wind directions, where possible; and**

Eight dwelling units are oriented well for sun exposure, 4 units are oriented for the predominant southwest wind direction. Site constraints do not allow further building orientation for sun and wind.

**(5) Trees preserved to the extent possible. Replacement of trees is subject to the requirements of Chapter 18.790, Tree Removal.**

Trees are preserved to the maximum extent possible, given the density and infrastructure needs of the developable portion of the site. For a more complete discussion of this issue, refer to the discussion of compliance with the requirements of Chapter 18.790. Findings from that analysis are hereby incorporated by reference as findings under this criterion.

**b. Buffering, screening and compatibility between adjoining uses:**

**(1) Buffering shall be provided between different types of land uses, e.g., between single-family and multi-family residential, and residential and commercial uses;**

As discussed previously, the proposed development is in compliance with the standard landscaped buffer requirement between detached single-family and attached single-family dwellings.

**(2) In addition to the requirements of the buffer matrix (Table 18.745.1), the following factors shall be considered in determining the adequacy and extent of the buffer required under Chapter 18.745:**

- (a) The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier;**
- (b) The size of the buffer needs in terms of width and height to achieve the purpose;**
- (c) The direction(s) from which buffering is needed;**
- (d) The required density of the buffering; and**
- (e) Whether the viewer is stationary or mobile.**

The nearest abutting development is the single-family dwellings located northwest of the development site. Clusters of trees will be preserved in this area. Because of the proximity of the proposed home on Lot 13 to the existing single-family dwelling to the west, staff recommends the following condition to enhance the buffering and screening in that location:

**CONDITION:** Staff recommends that the applicant provide a landscape buffer in compliance with the requirements of the landscape buffer C standard in Table 18.745.2 along the western edge of Lot 13. The applicant shall revise the landscape plan to comply with this requirement.

**(3) On-site screening from view from adjoining properties of such activities as service areas, storage areas, parking lots and mechanical devices on roof tops shall be provided and the following factors shall be considered in determining the adequacy of the type and extent of the screening: (a) What needs to be screened; (b) The direction from which it is needed; and (c) Whether the screening needs to be year- round.**

The street and driveway will be contained within the center of the development site. There are no proposed storage areas or other proposed activities that would require screening under this criterion.

- c. Privacy and noise: Non-residential structures which abut existing residential dwellings shall be located on the site or be designed in a manner, to the maximum degree possible, to protect the private areas on the adjoining properties from view and noise;**
- d. Private outdoor area -- multi-family use:**
- e. Shared outdoor recreation areas -- multi-family use:**

These criteria relate to non-residential or multi-family structures and are not applicable to the proposed attached single-family development.

**f. Access and circulation:**

**(1) The number of allowed access points for a development shall be provided in Chapter 18.705;**

The proposed development complies with the access standards in Chapter 18.705.

- (2) All circulation patterns within a development must be designed to accommodate emergency vehicles; and**

Referral comments from Tualatin Valley Fire and Rescue indicate that the proposed circulation system for the development is acceptable if their conditions are addressed. See Section VIII of this report for more details.

- (3) Provisions shall be made for pedestrian and bicycle ways if such facilities are shown on an adopted plan.**

No pedestrian or bicycle ways are shown on an adopted plan; however, the project is providing a pedestrian/bicycle way at the terminus of the private street to facilitate pedestrian/bicycle circulation to future development to the west.

**g. Landscaping and open space:**

- (1) Residential Development: In addition to the requirements of subparagraphs (4) and (5) of section a of this subsection, a minimum of 20 percent of the site shall be landscaped;**

35% of the development site will be landscaped.

**h. Public transit:**

- (1) Provisions for public transit may be required where the site abuts a public transit route. The required facilities shall be based on:**

The development does not abut a public transit route. The nearest transit route is at the corner of 121<sup>st</sup> and Walnut. Tri-Met officials have been notified of the proposed development and have not indicated a need for transit facilities at this location.

**i. Signs:**

No signage is proposed with this application.

**j. Parking:**

- (1) All parking and loading areas shall be generally laid out in accordance with the requirements set forth in Chapter Chapter 18.765;**
- (2) Up to 50% of required off-street parking spaces for single-family attached dwellings may be provided on one or more common parking lots within the planned development as long as each single-family lot contains one off-street parking space.**

Parking will comply with all applicable requirements of Chapter 18.765. Please refer to the previous discussion of compliance with parking standards in Section 18.350.100.B.2.e. No parking lots are proposed in conjunction with the proposed development.

- k. Drainage: All drainage provisions shall be generally laid out in accordance with the requirements set forth in Chapter 18.775, and the criteria in the adopted 1981 master drainage plan;**

Storm drainage complies, or will be conditioned to comply with applicable City of Tigard and USA requirements. For a more detailed discussion of storm drainage, see the discussion of compliance with the requirement of Chapter 18.775 later in this report.

- l. Floodplain dedication: Where landfill and/or development is allowed within or adjacent to the 100-year floodplain, the City shall require consideration of the dedication of sufficient open land area for a greenway adjoining and within the floodplain. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway with the floodplain in accordance with the adopted pedestrian bicycle pathway plan.**

No areas within the 100-year floodplain exist on the site. This criterion is not applicable.

**FINDING:** The proposed development complies, or can be conditioned to comply with all planned development approval criteria contained in Section 18.350.100 of the Tigard Development Code.

#### **18.350.110 Shared Open Space**

**A. Requirements for shared open space.** Where the open space is designated on the plan as common open space the following applies:

1. The open space area shall be shown on the final plan and recorded with the Director; and
2. The open space shall be conveyed in accordance with one of the following methods:
  - a. By dedication to the City as publicly-owned and maintained as open space. Open space proposed for dedication to the City must be acceptable to it with regard to the size, shape, location, improvement and budgetary and maintenance limitations;
  - b. By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity, with the City retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions suitable to the City Attorney for guaranteeing the following:
    - (1) The continued use of such land for the intended purposes;
    - (2) Continuity of property maintenance;
    - (3) When appropriate, the availability of funds required for such maintenance;
    - (4) Adequate insurance protection; and
    - (5) Recovery for loss sustained by casualty and condemnation or otherwise.
  - c. By any method which achieves the objectives set forth in Subsection 2 above of this section.

The applicant has indicated that the open space areas on the site will be conveyed to the developments' Homeowner's Association. To ensure compliance with City of Tigard standards, the following conditions shall apply:

**CONDITION:** Prior to final subdivision plat approval, the applicant shall convey title for the proposed open space area in accordance with the requirements of Section 18.350.110.A.2.b of the Tigard Development Code.

#### **18.370.20 Adjustments**

- A. Purpose.** The purpose of this section is to establish two classes of special variances:
1. "Development adjustments" which allow modest variation from required development standards within proscribed limits. Because such adjustments are granted using "clear and objective standards," these can be granted by means of a Type I procedure, as opposed to the more stringent standards of approval and procedure for variances.
  2. "Special adjustments" which are variances from development standards which have their own approval criteria as opposed to the standard approval criteria for variances contained in Section 18.370.010C.

**18.370.020.C.9. Adjustments for street improvement requirements (Chapter 18.810).** By means of a Type II procedure, as governed by 18.390.040, the Director shall approve, approve with conditions, or deny a request for an adjustment to the street improvement requirements, based on findings that the following criterion is satisfied: Strict application of the standards will result in an unacceptably adverse impact on existing development, on the proposed development, or on natural features such as wetlands, steep slopes or existing mature trees. In approving an adjustment to the standards, the Director shall determine that the potential adverse impacts exceed the public benefits of strict application of the standards.

The applicant has requested an adjustment to the maximum allowed cul-de-sac length of 200 feet, per Table 18.810.1. The proposed private cul-de-sac is approximately 500 feet in length. The applicant has argued that providing a public street connection through the proposed development would result in fewer trees preserved on the site and further impacts to sensitive areas on the site.



Accommodating the required street width and turning radius for a public street would require that a greater portion of the developable area of the site be devoted to streets than would be allowed for a private street. The proposed private street is 30 feet wide, with a 24-foot paved width. The narrowest possible public street would be 42 feet wide, with a 24-foot paved width. The curve radius for a public street would also require more of the site to be devoted to the roadway. The panhandle portion of the site is only 40 feet wide, which would not fully accommodate the narrowest public street. The applicant has also provided a circulation plan that shows how access may be provided to adjacent undeveloped properties in the future without the need for a public street connection through the development site.

Staff finds that requiring a public street connection to the property to the west rather than a private cul-de-sac in excess of the 200-foot cul-de-sac standard would result in adverse impacts to existing development, including the removal of additional healthy trees on the development site, and additional traffic and noise impacts that would result from a through street connection in this location.

Staff finds that granting the adjustment would result in reduced impacts to trees on the site, and would allow development to occur at a greater separation from the sensitive areas of the site. The applicant has amply demonstrated that access to adjacent underdeveloped parcels can be provided by other means.

**FINDING:** Based on the preceding analysis, staff recommends that the requested adjustment to the cul-de-sac length be approved. The street will serve no more than 20 dwelling units and will be constructed with a 24-foot paved width, as required for streets with less than 200 average daily trips.

## **DESIGN COMPATIBILITY STANDARDS: CHAPTER 18.720**

### **Applicability of Provisions: Section 18.720.020**

These provisions apply to all multi-family and attached single-family residential projects in zoning districts R-4.5 through R-40 that abut property zoned for single-family residential development, R-1 through R-4.5. These standards are applicable to this site because the property abuts existing single-family development.

### **DESIGN STANDARDS: 18.720.030.**

#### **A. Density Transition**

- 1. Building height shall not exceed two stories or 25 feet within 30 feet of the property line or three stories or 35 feet within 50 feet of the property line.**

The submitted elevations show that building height, as measured per Figure 18.120.1, will not exceed 25 feet within 30 feet of the property line. All proposed homes will be 25 feet tall or less.

- 2. Building planes for multi-family dwellings within 50 feet of the common property line(s) and abutting public rights of way shall be subject to the following standards...**

This criterion is not applicable to the proposed attached single-family dwelling development.

- B. Front facades. All primary ground-floor common entries or individual unit entries of street frontage units shall be oriented to the street, not to the interior or to a parking lot. The front elevation of large structures must be divided into smaller areas or planes of 500 square feet or less. Projecting features such as porches, balconies, bays and dormer windows and roof pediments are encourages for structures facing a street to create visual interest.**

The front facades of the proposed homes will face the private street. They will contain projecting features, as desired.

- C. Main entrance. Primary structures must be oriented with their main entrance facing the street upon which the project fronts. If the site is on a corner, it may have its main entrance oriented to either street or at the corner.**

All main entrances will face the private street.

**D. Unit definition.** Each dwelling unit shall be emphasized by including a roof dormer or bay windows on the street-facing elevation, or by providing a roof gable or porch that faces the street. Ground-level dwelling units shall include porches that shall be at least 48 square feet in area with no dimension less than six feet.

All dwelling units will incorporate street facing gables and porches as required. Proposed porches exceed the required 48 square foot minimum size and 6-foot minimum dimensional requirements.

**E. Roof lines.** Roof-line offsets shall be provided at intervals of 40 feet or less to create variety in the massing of structures and to relieve the effect of a single, long roof. Roof line offsets shall be a minimum 4-foot variation either vertically from the gutter line or horizontally.

Roof line offsets are provided, as required.

**F. Trim detail.** Trim shall be used to mark all building roof lines, porches, windows and doors that are on a primary structure's street-facing elevation(s).

This requirement is met.

**G. Mechanical equipment.** Roof-mounted mechanical equipment, other than vents or ventilators, shall be located and constructed so as to be screened from ground-level view. Screening shall be integrated with exterior building design.

No roof-mounted mechanical equipment is proposed.

**H. Parking.** Parking and loading areas may not be located between the primary structure(s) and the street upon which the structure fronts. If there is no alley and motor vehicle access is from the street, parking must be provided:

1. In a garage that is attached to the primary structure;
2. In a detached accessory structure located at least 50 feet from the front property line; or
3. In a parking area at the side or rear of the site.

Parking will be provided in attached garages, which is one of the acceptable options for compliance.

**I. Pedestrian circulation.**

1. The on-site pedestrian circulation system shall be continuous and connect the ground-level entrances of primary structure(s) to the following:
  - a. Streets abutting the site;
  - b. Common buildings such as laundry and recreation facilities;
  - c. Parking areas;
  - d. Shared open space and play areas;
  - e. Abutting transit stops; and
  - f. Any pedestrian amenity such as plazas, resting areas and viewpoints.
2. There shall be at least one pedestrian connection to an abutting street frontage for each 200 linear feet of street frontage.

Pedestrian connections will be provided from every home to the abutting private street. The sidewalk along one side of the street will provide access to Walnut Street to the north, as well as to the open space area.

**FINDING:** The proposed development complies with all design compatibility requirements.

## **ENVIRONMENTAL PERFORMANCE STANDARDS: CHAPTER 18.725**

These standards require that federal and state environmental laws, rules and regulations be applied to development within the City of Tigard. Section 18.725.030 Performance Standards regulates: Noise, visible emissions, vibration and odors.

**Noise.** For the purposes of noise regulation, the provisions of Sections 7.41.130 through 7.40.210 of the Tigard Municipal Code shall apply.

## **Visible Emissions.**

**Vibration.** No vibration other than that caused by highway vehicles, trains and aircraft is permitted in any given zoning district which is discernible without instruments at the property line of the use concerned.

**Odors.** The emissions of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. DEQ rules for odors (340-028-090) apply.

**Glare and heat.** No direct or sky reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, which is visible at the lot line shall be permitted, and; 1) there shall be no emission or transmission of heat or heated air which is discernible at the lot line of the source; and 2) these regulations shall not apply to signs or floodlights in parking areas or construction equipment at the time of construction or excavation work otherwise permitted by this title.

**Insects and rodents.** All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

As this is an attached single-family project, which is permitted within planned developments in the R-4.5 zone, the applicable performance standards are considered to be met; however, ongoing maintenance to meet these standards shall be maintained.

**FINDING:** This standard is met.

## **SENSITIVE LANDS: CHAPTER 18.775**

### **C. Sensitive lands permits issued by the Director.**

1. The Director shall have the authority to issue a sensitive lands permit in the following areas by means of a Type II procedure, as governed in Section 18.390.040, using approval criteria contained in Section 18.775.070 C-E:
  - a. Drainageways;
  - b. Slopes that are 25% or greater or unstable ground; and
  - c. Wetland areas which are not regulated by other local, state, or federal agencies and are designated as significant wetlands on the Comprehensive Plan Floodplain and Wetland Map.
2. Sensitive lands permits shall be required for the areas in Section 18.775.020 D1 above when any of the following circumstances apply:
  - a. Ground disturbance(s) or land form alterations involving more than 50 cubic yards of material;
  - b. Repair, reconstruction, or improvement of an existing structure or utility, the cost of which equals or exceeds 50 percent of the market value of the structure prior to the improvement or the damage requiring reconstruction;
  - c. Residential and non-residential structures intended for human habitation; and
  - d. Accessory structures which are greater than 528 square feet in size, outside floodway areas.

### **18.775.50 General Provisions for Wetlands**

- A. **Code compliance requirements.** Wetland regulations apply to those areas meeting the definition of wetland in Chapter 18.120 of the Community Development Code, areas meeting Division of State Lands wetland criteria and to land adjacent to and within 25 feet of a wetland. Wetland locations may include but are not limited to those areas identified as wetlands in "Wetland Inventory and Assessment for the City of Tigard, Oregon," Fishman Environmental Services, 1994.
- B. **Delineation of wetland boundaries.** Precise boundaries may vary from those shown on wetland maps; specific delineation of wetland boundaries may be necessary. Wetland delineation will be done by qualified professionals at the applicant's expense.

The development site contains sensitive land areas, including areas with slopes of 25% or greater, wetlands, and drainageways.

**Sensitive Lands Permits: 18.775.070**

**D. With excessive slopes.** The appropriate approval authority shall approve, approve with conditions or deny an application request for a sensitive lands permit on slopes of 25% or greater or unstable ground based upon findings that all of the following criteria have been satisfied:

- 1. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than that required for the use;**

The applicant's grading plan indicates that grading on site will be limited to adding fill to build-up Lots 4, 5, 6 and 7, as well as excavating the series of stormwater detention basins. Areas of proposed grading are outside of steep slope areas. The applicant's submitted geotechnical report, prepared by GeoPacific Engineering, indicates that the fill will adequately support the proposed development if the recommendations of the report are followed. As discussed later in this report in relation to the requirements of Chapter 18.810, the applicant shall be required to abide by the recommendations of the geotechnical report. The proposed grading is necessary to allow for development of the less sensitive area of the site, as well as to best accommodate and treat stormwater from the development. The proposed development plan minimizes site disturbances as much as possible, while allowing for development on the site.

- 2. The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;**

The applicant's geotechnical report includes recommendations regarding erosion control and ground stabilization in fill areas. The report finds that if these recommendations are followed, erosion and ground instability will not result. Additionally, the service provider letter from the Unified Sewerage Agency (USA) requires the use of appropriate Best Management Practices for Erosion Control. If required, these measures will ensure that the above criterion is met.

- 3. The structures are appropriately sited and designed to ensure structural stability and proper drainage of foundation and crawl space areas for development with any of the following soil conditions: wet/high water table; high shrink-swell capability; compressible/organic; and shallow depth-to-bedrock; and**

The recommendations of the geotechnical report include detailed requirements for the placement of fill and the construction of building foundations on the development site. The report specifically mentions compressible/organic soil conditions on a portion of the site, but states that the proposed development can be constructed if the engineer's recommendations are followed.

- 4. Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 18.745, Landscaping and Screening.**

The service provider letter from USA requires re-vegetation with native species within the vegetated corridor around the drainageway and associated wetlands. In other areas, the requirements of Section 18.745.060 will need to be imposed to ensure that the necessary replanting occurs.

**FINDING:** The development proposal will comply with the above excessive slopes criteria if the following conditions are imposed, and if the recommendations of the geotechnical report are followed, as is recommended elsewhere in this report:

**CONDITIONS:**

- ♦ The applicant shall use appropriate Best Management Practices for Erosion Control, as required in the USA service provider letter.
- ♦ The applicant shall re-vegetate all affected areas in compliance with Section 18.745.060 after construction activities are completed and prior to removal of erosion control measures.

**E. Within drainageways.** The appropriate approval authority shall approve, approve with conditions or deny an application request for a sensitive lands permit within drainageways based upon findings that all of the following criteria have been satisfied:

1. **The extent and nature of the proposed land form alteration or development will not create site disturbances to the extent greater than that required for the use;**

The applicant has proposed creating a series of stormwater detention basins within the 50-foot wetland buffer established by USA. No encroachment is proposed within the drainageway itself, which flows through the center of the wetland area.

2. **The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;**

This criterion has been adequately addressed under the discussion of Criterion 18.775.070.C.2 above.

3. **The water flow capacity of the drainageway is not decreased;**

The proposed development will not alter the water flow capacity of the existing drainageway.

4. **Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 18.745, Landscaping and Screening;**

Conditions of the USA's service provider letter require that all non-native and invasive vegetation within the 50-foot vegetated corridor around the wetland/drainageway be removed. The service provider letter also requires the applicant to enhance and restore native vegetation within the vegetated corridor. To begin to address this requirement, the applicant has submitted a mitigation planting plan that has been reviewed and approved by USA staff.

5. **The drainageway will be replaced by a public facility of adequate size to accommodate maximum flow in accordance with the adopted 1981 Master Drainage Plan;**

The drainageway will remain intact. No replacement is necessary.

6. **The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands approvals shall be obtained;**

The USA service provider letter requires a concurrence of wetland boundaries from the Division of State Lands and/or the Army Corps of Engineers. The letter also requires that the applicant gain approval for all work within sensitive areas from DSL and USACOE.

7. **Where land form alterations and/or development are allowed within and adjacent to the 100-year floodplain, the City shall require the consideration of dedication of sufficient open land area within and adjacent to the floodplain in accordance with the Comprehensive Plan. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian bicycle pathway plan.**

The site does not contain a 100-year floodplain. This criterion is not applicable.

**FINDINGS:** All applicable sensitive lands criteria for development in drainageway areas are met, or can be conditioned to be met, as follows:

**CONDITION:** The applicant shall be required to meet all conditions of the USA service provider letter, at the appropriate stages of the development process.

- F. **Within wetlands. The Director shall approve, approve with conditions or deny an application request for a sensitive lands permit within wetlands based upon findings that all of the following criteria have been satisfied:**

1. **The proposed land form alteration or development is neither on wetland in an area designated as significant wetland on the Comprehensive Plan Floodplain and Wetland Map nor is within 25 feet of such a wetland;**

As discussed in the analysis of compliance with water resources criteria, which follows this section, the drainageway and wetland areas on the development site are classified as a minor stream and adjacent/isolated wetland. As such, there is no water resources standard riparian setback applied under water resources requirements, as indicated in Table 18.797.1. USA has indicated the need for a 50-foot water quality buffer/vegetated corridor around the wetland and drainageway, but has indicated that the placement of stormwater treatment facilities within the 50-foot buffer is the preferred alternative of the three options presented to them.

The applicant has proposed a limited amount of grading to create the stormwater treatment facility within the 50-foot buffer and within a small portion of the wetland area. No other encroachment is proposed within the 50-foot buffer area. USA comments indicate that the proposed work will result in the enhancement of the currently marginal and degraded condition of the vegetated corridor surrounding the stream and wetland. Since the drainageway and wetland are classified as a minor stream and isolated wetland, the City of Tigard does not apply the 25-foot setback from the wetland that is imposed for more significant water features. The proposed stormwater facility is allowed as long as it remains outside of the wetland itself. This issue is discussed in more detail under the following discussion of compliance with Water Resources requirements.

- 2. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than the minimum required for the use;**

Of the 3 options presented to USA staff for stormwater treatment facilities on the site, this option was chosen as the preferred option. The applicant has included the details of the alternatives analysis required by USA in the submittal materials. The proposal does the best job of minimizing the disturbances to the sensitive area.

- 3. Any encroachment or change in on-site or off-site drainage which would adversely impact wetland characteristics have been mitigated;**

The proposed water quality and detention system, as well as enhancement and re-planting within the vegetated corridor, will result in the improvement of wetland characteristics on the site.

- 4. Where natural vegetation has been removed due to land form alteration or development, erosion control provisions of the Surface Water Management program of Washington County must be met and areas not covered by structures or impervious surfaces will be replanted in like or similar species in accordance with Chapter 18.745, Landscaping and Screening;**

This criterion has been adequately addressed in the preceding discussion of criterion 18.775.070.D.4 and will be met with the requirement of compliance with all conditions of the USA service provider letter.

- 5. All other sensitive lands requirements of this chapter have been met;**

All other sensitive land requirements have been met, or shall be conditioned to be met, as discussed in this section.

- 6. The provisions of Chapter 18.790, Tree Removal, shall be met;**

As discussed later in this report, all provisions of Chapter 18.790 shall be met.

- 7. Physical Limitations and Natural Hazards, Floodplains and Wetlands, Natural Areas, and Parks, Recreation and Open Space policies of the Comprehensive Plan have been satisfied.**

The proposed development is consistent with the cited Comprehensive Plan Policies.

**FINDING:** The applicant's proposal complies, or has been previously conditioned to comply, with all applicable requirements for development in wetland areas.

## **WATER RESOURCES (WR) OVERLAY DISTRICT CHAPTER 18.79** **18.797.30 Applicability and Generalized Mapping**

- A. **WR overlay district application.** The WR overlay district applies to all significant wetlands and streams, and applicable riparian setback and water quality buffer areas, that appear on the Tigard Wetlands and Stream Corridors Map. The standards and procedures of this chapter:
1. Apply to all development proposed on property located within, or partially within, the WR overlay district;
  2. Are in addition to the standards of the underlying zone; and
  3. In cases of conflict, supersede the standards of the underlying zone.
- B. **The Tigard wetlands and stream corridors map.** The Tigard wetlands and stream corridors map identifies, generally, the tops-of-bank, wetland edges, riparian setbacks and water quality buffers for the following significant water resources:
1. The Tualatin River riparian corridor;
  2. Major stream riparian corridors;
  3. Minor streams; and
  4. Isolated wetlands.
- C. **Standard riparian setbacks and USA water quality buffers.** The applicant shall be responsible for surveying and mapping the precise location of the top-of-bank, wetland edge, riparian setback and/or USA water quality buffer at the time of application submittal.

The water resources overlay district standards are applicable to the proposed development because the wetland area on the site is shown on the Significant Wetlands and Stream Corridor Map, as referenced in Section 18.797.030.A. The map shows the wetland area in the northeast corner of the development site, in the approximate location of the wetland survey conducted by the applicant. The wetland survey conducted by the applicant found two very small wetland areas just to the northwest of the large wetland pond feature on the site. The survey also found that a “finger” of the wetland extends to the southwest from the main body of the wetland/pond area.

The applicant has proposed developing a series of stormwater detention basins with the 50-foot vegetated corridor surrounding the stream and wetland, in association with wetland enhancement plantings. Because the proposed enhancement and replanting will occur within 10 feet of the edge of the wetland and drainageway boundaries, a Type II Water Resources review is required, per Table 18.797.2.

The applicant has proposed a limited amount of grading within the “finger” portion of the wetland area (1,890 square feet) to accommodate one of the detention basins. Table 18.797.2 indicates that grading and the placement of fill is prohibited within a minor stream and/or isolated wetland. The applicant has been notified of this concern and has argued that the “finger” portion of the wetland is not indicated on the Tigard Wetlands and Stream Corridors Map. However, as indicated in Section 18.797.030, Subsections A, B, and C above, the map is intended to show only generalized locations for significant wetlands and streams within Tigard. The applicant is responsible for surveying and mapping the precise locations of specific wetlands and streams. The fact that the “finger” portion of the wetland is contiguous with the larger wetland feature makes it difficult for staff to find that this portion of the wetland is not subject to the provisions of the Water Resources Overlay District. The applicant has also argued that the “finger” portion of the wetland is a relatively recent development and should not be considered part of the historic wetland mapped in the Fishman Study. Staff finds that the Water Resources code requirements do not allow for differentiation between recent and historic wetland areas. The proposed grading within the “finger” portion of the wetland area does not comply with this prohibition, therefore, the following condition shall apply:

**CONDITION:** The applicant shall redesign the proposed stormwater facility so that it does not result in grading or filling within the wetland areas on the site. The stormwater facility may be located within the 50-foot vegetated corridor, but may not be located within the wetland or drainageway.

#### **18.797.80 Development Standards**

The following shall apply to all development, including native vegetation removal and excavation, within the WR overlay district. No application for a use identified in Section 18.797.050 shall be deemed complete until the applicant has addressed each of these standards in writing.

**A. Alternatives considered.** Except for stream corridor enhancement, most Type II and III uses are expected to develop outside of water resource and riparian setback areas. Therefore, Type II and III development applications must carefully examine upland alternatives for the proposed use, and explain the reasons why the proposed development cannot reasonably occur outside of the water resource or riparian setback area.

The applicant submitted three alternative designs to USA. USA staff chose the proposed design as the best alternative. The design minimizes impacts to sensitive areas, while providing enhancements to the quality of wetland and stream areas. For the most part, the proposed design will locate development outside of the water resource area, as is desired. The proposed work within the vegetated corridor will serve to enhance the resource value of the degraded wetland area and will be accompanied by enhancement of additional areas outside of the vegetated corridor.

**B. Minimize siting impacts.** The proposed use shall be designed, located and constructed to minimize excavation, loss of native vegetation, erosion, and adverse hydrological impacts on water resources.

1. For Type II and III uses, the civil engineer with experience in water quality must certify that any adverse water quality impacts of the development proposal will be minimized consistent with best management practices;

The applicant has submitted a letter from the project civil engineer certifying that any adverse water quality impacts will be minimized consistent with best management practices.

2. For all uses, the development shall be located as far from the water resource, and use as little of the water resource or riparian setback area, as possible, recognizing the operational needs of the proposed development.

As conditioned above, no part of the development will intrude into wetland or stream areas. Water quality buffers are not applied to minor streams and isolated wetlands, per Table 18.797.1. The stormwater detention facility within USA's 50-foot vegetated corridor has been reviewed and approved by USA. The greatest impact of the development, including all 18 dwelling units, will be located on the western side of the site away from the sensitive land areas.

**C. Construction materials and methods.** Where development within the riparian area is unavoidable, construction materials or methods used within the riparian setback area shall minimize damage to water quality and native vegetation.

Although there is no riparian setback area applied to this development, USA's service provider letter requires that best management practices be utilized to minimize damage to water quality and native vegetation.

**D. Minimize flood damage.** Above-ground residential structures shall not be permitted within the WR overlay district, where such land is also within the 100-year floodplain. On-site flood storage capacity shall not decrease as a result of development. The cumulative effects of any proposed development shall not reduce flood storage capacity or raise base flood elevations on- or off-site. Any new commercial or industrial land development proposed within the 100-year floodplain shall be designed consistent with Chapter 18.775, Sensitive Lands.

This criterion is not applicable, as no portion of the site is within the 100-year floodplain. However, on-site flood storage capacity on site will increase as a result of the construction of the stormwater detention facility.

**E. Avoid steep slopes.** Within 50 feet of any water resource, excavation and vegetation removal shall be avoided on slopes of 25% or greater and in areas with high erosion potential (as shown on SCS maps), except where necessary to construct public facilities or to ensure slope stability.

Sheet 2 of the applicant's submittal indicates the location of steep slope areas on the site, as well as the location of the 50-foot buffer line. As shown, most of the steeply sloped areas are outside the 50-foot buffer zone. The proposed grading avoids the steeply sloped areas on the site. The geotechnical report submitted by the applicant did not indicate any potential erosion problems that could not be accommodated with standard erosion control measures, which will be required.



- F. **Minimize impacts on existing vegetation.** The following standards shall apply when construction activity is proposed in areas where vegetation is to be preserved.
1. Temporary measures used for initial erosion control shall not be left in place permanently;
  2. Work areas on the immediate site shall be carefully identified and marked to reduce potential damage to trees and vegetation;
  3. Trees shall not be used as anchors for stabilizing working equipment. During clearing operations, trees and vegetation shall not be permitted to fall or be placed outside the work area;
  4. In areas designated for selective cutting or clearing, care in falling and removing trees and brush shall be taken to avoid injuring trees and shrubs to be left in place;
  5. Stockpiling of soil, or soil mixed with vegetation, shall not be permitted on a permanent basis.

The applicant has submitted an arborist's report indicating which trees will be preserved and which will be removed from the site. Much of the other vegetation within the 50-foot buffer line is non-native, invasive vegetation, which USA requires to be replaced with native species, as indicated on the submitted mitigation planting plan. Tree Protection Standards from the arborist's report include the measures required under this criterion. Therefore, the following condition shall apply:

**CONDITION:** The applicant shall abide by all Tree Protection Standards included in the arborist's report prepared by Walter H. Knapp, dated February 20, 2001. Required tree preservation fencing shall be installed prior to site grading or clearing and shall remain in place until final occupancy permits are issued for the proposed homes.

- G. **Vegetation mitigation plan.** If a Type II or III use is proposed within a water resource site or riparian setback area, or mitigation is proposed as a method to reduce the riparian setback in accordance with Section 18.797.100, a mitigation plan shall be prepared and implemented.

1. The applicant shall be responsible for re-vegetating areas temporarily disturbed by excavation on a 1:1 basis;

The applicant has provided a mitigation planting plan that has met with the approval of USA and which meets this standard.

2. Where approval is granted to reduce the riparian setback area, the applicant shall be responsible for mitigating for the reduced setback by replacing non-native vegetation within the remaining, protected riparian setback area on a 1.5:1 basis. That is, for each 100 square feet of riparian setback that is lost to development, at least 150 square feet of existing disturbed area within the riparian setback or wetland shall be re-planted with native plant species;

This criterion is not applicable because the applicant has not requested to reduce a riparian setback area.

3. The re-vegetation plan shall provide for the replanting and maintenance of native plant species designed to achieve pre-disturbance conditions. The applicant shall be responsible for replacing any native plant species that do not survive the first two years after planting, and for ensuring the survival of any replacement plants for an additional two years after their replacement.

The submitted planting plan will achieve this purpose. To ensure that the planting plan is followed, the following condition shall apply:

**CONDITION:** Prior to approval of the final plat, the applicant shall prepare Conditions, Covenants, and Restrictions (CC & R's) for this project, to be recorded with the final plat, that clearly set out the requirement that native plantings that do not survive the first two years must be replaced, and that replacement plants must be maintained for two years following replacement. The CC & R's shall obligate the private property owners within the subdivision to create a homeowner's

association to ensure that the plantings are maintained. The applicant shall submit a copy of the CC & R's to the Planning Department (Kevin Young) prior to approval of the final plat.

- H. **Water and sewer infiltration and discharge.** Water and sanitary sewer facilities shall be designed, located and constructed to avoid infiltration of floodwaters into the system, and to avoid discharges from such facilities to streams and wetlands.

No water or sewer is proposed near the water resource area.

- I. **On-site systems.** On-site septic systems and private wells shall be prohibited within the WR overlay district.

No septic systems are proposed within this development.

- J. **Erosion control plan.** If a Type II or III use is proposed within a water resource site or riparian setback area, the following erosion control standards shall apply within the WR overlay district:

1. Specific methods of soil erosion and sediment control shall be used during construction to minimize visible and measurable erosion;
2. The land area to be grubbed, stripped, used for temporary placement of soil, or to otherwise expose soil shall be confined to the immediate construction site only;
3. Construction activity will take place during the dry season (June-October), whenever feasible, and the duration of exposure of soils shall be kept to a minimum during construction;
4. Exposed soils shall be covered by mulch, sheeting, temporary seeding or other suitable material following grading or construction, until soils are stabilized. During the rainy season (November through May), soils shall not be exposed for more than 7 calendar days. All disturbed land areas which will remain unworked for 21 days or more during construction, shall be mulched and seeded;
5. During construction, runoff from the site shall be controlled, and increased runoff and sediment resulting from soil disturbance shall be retained on-site. Temporary diversions, sediment basins, barriers, check dams, or other methods shall be provided as necessary to hold sediment and runoff;
6. A stabilized pad of gravel shall be constructed at all entrances and exists to the construction site. The stabilized gravel pad shall be the only allowable entrance or exit to the site;
7. Topsoil removal for development shall be stockpiled and reused on-site to the degree necessary to restore disturbed areas to their original or enhanced condition, or to assure sufficient stable topsoil for re-vegetation. Additional soil shall be provided if necessary to support re-vegetation;
8. The removal of all sediments which are carried into the streets, water resources or on to adjacent property, are the responsibility of the applicant. The applicant shall be responsible for cleaning up and repairing streets, catch basins, water resource areas and adjacent properties, where such properties are affected by sediments or mud. In no case shall sediments be washed into storm drains, ditches or drainageways;
9. Any other relevant provisions of the *Erosion Prevention and Sediment Control Plans Technical Guidance Handbook* (City of Portland Bureau of Environmental Services and Unified Sewerage Agency of Washington County, Revised February 1994), required by the Planning Director.

- K. **Plan implementation.** A schedule of planned erosion control and re-vegetation measures shall be provided, which sets forth the progress of construction activities, and mitigating erosion control measures. An approved Erosion Control of Re-vegetation Plan shall be implemented and maintained as follows:

1. Erosion control measures shall be installed prior to any stripping or excavation work.
2. The applicant shall implement the measures and construct facilities contained in the approved Erosion Control Plan in a timely manner. During active construction, the applicant shall inspect erosion control measures daily, and maintain, adjust, repair or replace erosion control measures to ensure that they are functioning properly.
3. Eroded sediment shall be removed immediately from pavement surfaces, off-site areas, and from the surface water management system, including storm drainage inlets,

- ditches and culverts.
4. **Water containing sediment shall not be flushed into the surface water management system, wetlands or streams without first passing through an approved sediment filtering facility or device.**
  5. **In addition, the applicant shall call for City inspection, prior to the foundation inspection for any building, to certify that erosion control measures are installed in accordance with the erosion control plan.**

To ensure compliance with the requirements of these criteria, the following conditions shall apply:

**CONDITIONS:**

- ♦ The applicant shall revise their erosion control plan to address and include all requirements noted in Sections 18.797.080 (Subsections J and K).
- ♦ No site grading or clearing will be allowed until all necessary erosion control measures are in place.
- ♦ Prior to foundation inspections for individual homes, erosion control measures shall be in place.

**FINDING:** Subject to the satisfaction of the recommended conditions, the requirements of the Water Resources Overlay District will be met.

**TREE REMOVAL: CHAPTER 18.790**

**A tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided with a site development review application. The tree plan shall include identification of all existing trees, identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper, which trees are to be removed, protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.**

The applicant has submitted an arborist's report and a tree preservation plan per the requirements of Chapter 18.790. The report states that there are 162 trees on the site that are 12 inches in diameter or larger. Of these, 15 are identified as hazardous trees, 114 are designated to be preserved, and 33 trees are slated for removal. Based on these figures, the arborist concludes that no tree mitigation is required for the trees to be removed, because the retention of 75% or more of the existing trees over 12 inches in caliper requires no mitigation, per Section 18.790.030.B.2.d. The City Forester has provided the following comments regarding the arborist's report:

I am concerned about eight trees that are included in the tree inventory that have a classification of Dead, Dying, Diseased, or Dangerous. According to the report, these eight trees (numbers 661, 662, 663, 684, 685, 686, 693, and 704) are considered dangerous due to their susceptibility to wind damage based on their live crown ratios. For the most part, I do agree with the live crown ratio assessments, but I disagree with the trees susceptibility to wind damage in their current state and growing conditions. These eight trees are intermediate trees or over-topped. They are located within a stand of larger trees, which provide protection from heavy winds. I would agree, however, that wind damage is a major threat to the trees if they remain standing while the larger adjacent trees are removed. Although there are certainly no guarantees that the trees' tops cannot break out as the currently exist, I believe that the trees should not be omitted from the mitigation requirements due to possible wind damage.

Planning staff agrees with the City Forester that if the trees are currently healthy, but would be rendered a hazard through the development process, the loss of the trees should be mitigated. Section 18.790.020.A of the Tree Removal standards defines a "hazardous tree" as a tree which, "by reason of disease, infestation, age, or other condition presents a known and immediate hazard to persons or to public or private property." The hazard posed by the aforementioned trees is not "immediate", but would be created after surrounding trees are removed. Based on the City Forester's comments, of the 162 trees on the site, 7 should be considered diseased or hazardous, 114 are designated to be preserved, and 41 will need to be removed (and mitigated for). Thus, approximately 74% of the trees over 12 inch caliper will be retained on site. Per Section 18.790.030.B.2.c., if 50-75% of the trees on site are retained, 50% of the trees to be removed must be mitigated. The applicant has not prepared a tree mitigation plan because their analysis indicated that mitigation would not be required. To ensure that the mitigation requirements are fulfilled, the following conditions should be applied:

## CONDITIONS:

- ♦ The applicant shall prepare tree mitigation materials to indicate the total number of caliper inches of trees to be removed. The applicant shall indicate how they intend to mitigate for 50% of the total number of caliper inches to be removed.
- ♦ The applicant shall submit a bond to provide for the planting of the required caliper inches of trees. An approximate figure for the cost of purchasing, transporting, planting, and maintaining a 2-inch caliper tree is \$200. The applicant shall specify how they propose to mitigate for the required caliper inches to be mitigated. All mitigation trees shall be a minimum of 2-inch caliper size. If the applicant intends to mitigate on-site by planting trees, a revised landscaping plan shall be required that indicates which trees are to be counted towards the mitigation total. Street trees and trees required to meet the buffer and parking lot tree requirements shall not be counted toward the mitigation trees.
- ♦ Per the requirements of Section 18.790.040.B, the applicant shall record a deed restriction for all trees designated to be preserved to the effect that such tree may be removed only if the tree dies or is hazardous according to a certified arborist. A copy of the deed restriction documentation shall be reviewed and approved by the City prior to final plat approval.
- ♦ The applicant shall revise the tree preservation plan to indicate which trees to be removed, if any, are located within sensitive land areas on the site. If trees of 12 inch caliper size or greater are to be removed from sensitive land areas, a tree removal permit shall be required to authorize their removal.

### 18.790.40 Incentives for Tree Retention

**A. Incentives.** To assist in the preservation and retention of existing trees, the Director may apply one or more of the following incentives as part of development review approval and the provisions of a tree plan according to Section 18.790.030:

1. **Density bonus.** For each 2% of canopy cover provided by existing trees over 12 inches in caliper that are preserved and incorporated into a development plan, a 1% bonus may be applied to density computations of Chapter 18.715. No more than a 20% bonus may be granted for any one development. The percentage density bonus shall be applied to the number of dwelling units allowed in the underlying zone;

The arborist's report indicates that 71% of the existing canopy cover provided by trees over 12 inches in diameter will be preserved on the site. Based on this figure, the applicant could request a density bonus up to the maximum allowed of 20%. The applicant is requesting a 4.3% density bonus under these provisions to bring the total allowed density on the site up to 18 dwelling units. Staff recommends that the requested density bonus be granted.

### **G. IMPACT STUDY: SECTION 18.390.040.B.e**

**Requires that the applicant shall include an impact study. The study shall address, at a minimum, the transportation system, including bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact of the development on the public at large, public facilities systems, and affected private property users. In situations where the Community Development Code requires the dedication of real property interests, the applicant shall either specifically concur with the dedication of real property interest, or provide evidence which supports the conclusion that the real property dedication requirement is not roughly proportional to the projected impacts of the development.**

The applicant has submitted an impact study addressing the required elements above.

### **ROUGH PROPORTIONALITY ANALYSIS**

Based on a transportation impact study prepared by Mr. David Larson for the A-Boy Expansion/Dolan/Resolution 95-61, TIF's are expected to recapture 32 percent of the traffic impact of new development. Presently, the TIF for each residential trip that is generated is \$213.

According to the Washington County TIF ordinance, 32 percent of a projects impacts are met by its TIF assessment in Tigard. This leaves 68% unmitigated. The actual cost of system improvements per trip generated by new development on the Tigard street system can be determined by the following equation (Larson, Mackenzie Engineering, Dolan Findings, June 1995):  
\$213 divided by .32 equals \$665.6

(\$213 is the residential use trip rate per trip TIF assessment according to the Washington County TIF ordinance effective July 1, 2000).

According to the ITE manual figures and the TIF ordinance, a single-family residential unit generates 10 average weekday trips per dwelling unit per day. As there are eighteen units proposed, 180 trips are generated per day for this site.

#### Less mitigated costs

The applicant is required to dedicate an additional 3-feet of right-of-way along the project's 45-feet of frontage along Walnut Street. At an approximate cost of \$3 per square foot, this is valued at approximately \$400. The applicant is also required to dedicate the sidewalk and bicycle path connecting Walnut Street to the property to the west. The value of this property is estimated to be approximately \$7,230.

#### Estimate of Unmitigated Impacts

Full Impact .....	180 x \$665.6=.....	\$119,808
Less TIF Assessment.....	180 x \$213=.....	\$38,340
Less mitigated costs.....		\$7,230
Estimate of Unmitigated Impacts		\$74,238

**FINDING:** Using the above cost factors, it can be determined that the unmitigated impacts exceed the costs of the conditions imposed and, therefore, the conditions are roughly proportional and justified.

#### **Street And Utility Improvements Standards (Section 18.810):**

**Chapter 18.810 provides construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage. The applicable standards are addressed below:**

##### **Streets:**

##### **Improvements:**

**Section 18.810.030.A.1 states that streets within a development and streets adjacent shall be improved in accordance with the TDC standards.**

**Section 18.810.030.A.2 states that any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with the TDC.**

**Minimum Rights-of-Way and Street Widths: Section 18.810.030(E) requires a major collector street to have a 60 to 80-foot right-of-way width and 44-foot paved section. Other improvements required may include on-street parking, sidewalks and bikeways, underground utilities, street lighting, storm drainage, and street trees.**

This site lies adjacent to SW Walnut Street, which is classified as a major collector on the City of Tigard Transportation Plan Map. At present, there is approximately 30 feet of ROW from centerline, according to the most recent tax assessor's map. The applicant should dedicate additional ROW adjacent to this site to provide 33 feet from the centerline.

SW Walnut Street is currently paved, but not improved to current City standards. A traffic study was prepared by Stein Engineering to address the existing sag vertical curve to the east of this site. Detailed discussion of the sight distance issue, as well as other issues, will be discussed in that section.

The site has a narrow frontage on SW Walnut Street, approximately 45 feet. This width is just wide enough to accommodate the proposed private street entrance. The proposed location of the new private street intersection is across from the existing SW 124<sup>th</sup> Avenue. There will be more discussion about the proposed private street in a later section.

The applicant's plans show the private street will extend into the development and terminate near the western boundary. Sheet 7 is a future street plan that shows that a pedestrian/bike path could be constructed to the western boundary to tie into a future pedestrian/bike path. Significant discussion between the applicant and staff took place regarding whether or not a public street should be extended through this site and stub to the west. Sheet 7 shows that a public street is really not needed. The parcels to the west and south could be adequately developed with other public streets, and a public street stub from this property is not necessary.

**Future Street Plan and Extension of Streets:** Section 18.810.030(F) states that a future street plan shall be filed which shows the pattern of existing and proposed future streets from the boundaries of the proposed land division. This section also states that where it is necessary to give access or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary lines of the tract to be developed and a barricade shall be constructed at the end of the street. These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed. A barricade shall be constructed at the end of the street by the property owners which shall not be removed until authorized by the City Engineer, the cost of which shall be included in the street construction cost. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.

As was stated previously, a future street plan (Sheet 7) was provided that shows how lands to the west and south can be developed without a public street extending from this development. The applicant has applied for an adjustment to this standard in accordance with 18.370.030. The applicant states that extension of a public street would have adverse impacts on the existing trees and the wetland area. In addition, the orientation and width of the flagpole of this parcel would make construction of a standard public street very difficult. Based upon the fact that the adjacent parcels can be developed without a public street extending from this parcel, Staff agrees that a public street is not needed.

**Cul-de-sacs:** 18.810.030.K states that a cul-de-sac shall be no more than 200 feet long, shall not provide access to greater than 20 dwelling units, and shall only be used when environmental or topographical constraints, existing development pattern, or strict adherence to other standards in this code preclude street extension and through circulation:

- ♦ All cul-de-sacs shall terminate with a turnaround. Use of turnaround configurations other than circular, shall be approved by the City Engineer; and
- ♦ The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.
- ♦ If a cul-de-sac is more than 300 feet long, a lighted direct pathway to an adjacent street may be required to be provided and dedicated to the City.

The proposed private street extends into this site approximately 510 feet, which exceeds the 200-foot length standard. The applicant has also requested an adjustment to this standard. They cite the same reasons associated with the preclusion of a public street. Based upon the previous findings, Staff agrees that a public street connection is not needed, thereby creating the need for a dead-end street. Since a public street is not required, a dead-end private street is acceptable. The applicant's plan shows that the street will terminate in a hammerhead turnaround, which will meet fire code requirements.

Since this private street will be over 300 feet long, and since it is very likely that the adjacent parcels will eventually be developed, the applicant should construct a pedestrian/bike path to the western boundary of this site, to facilitate future connection and extension. This pedestrian/bike path should be lighted and placed in a tract to be dedicated to the City.

**Street Alignment and Connections:** Section 18.810.030(G) requires all local streets which abut a development site shall be extended within the site to provide through circulation when not precluded by environmental or topographical constraints, existing development patterns or strict adherence to other standards in this code. A street connection or extension is precluded when it is not possible to redesign, or reconfigure the street pattern to provide required extensions. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the constraint precludes some reasonable street connection.

There are no existing public streets stubbing into this site, and there is no need for a public street to be extended (based upon previous findings). The private street will not be extended to the western boundary, but the applicant should construct a pedestrian/bike path to that boundary as per 18.810.030.K.

**Grades and Curves:** Section 18.810.030.M states that grades shall not exceed ten percent on arterials, 12% on collector streets, or 12% on any other street (except that local or residential access streets may have segments with grades up to 15% for distances of no greater than 250 feet), and:

1. **Centerline radii of curves shall not be less than 700 feet on arterials, 500 feet on major collectors, 350 feet on minor collectors, or 100 feet on other streets; and**
2. **Streets intersecting with a minor collector or greater functional classification street, or streets intended to be posted with a stop sign or signalization, shall provide a landing averaging five percent or less. Landings are that portion of the street within 20 feet of the edge of the intersecting street at full improvement.**

The new private street will have a maximum gradient of approximately 2.89%, which will meet this standard.

**Access to Arterials and Major Collectors:** Section 18.810.030.P states that where a development abuts or is traversed by an existing or proposed arterial or major collector street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design shall include any of the following:

- ♦ **A parallel access street along the arterial or major collector;**
- ♦ **Lots of suitable depth abutting the arterial or major collector to provide adequate buffering with frontage along another street;**
- ♦ **Screen planting at the rear or side property line to be contained in a nonaccess reservation along the arterial or major collector; or**
- ♦ **Other treatment suitable to meet the objectives of this subsection;**
- ♦ **If a lot has access to two streets with different classifications, primary access should be from the lower classification street.**

Walnut Street is classified as a major collector street. Although the development site has frontage on Walnut Street, the area of frontage must be used to accommodate the proposed private street connection. No lots or residences are proposed that would directly abut Walnut Street. No access to the new lots is proposed, or would be permitted, directly onto SW Walnut Street.

**Private Streets:** Section 18.810.030.S states that design standards for private streets shall be established by the City Engineer. The City shall require legal assurances for the continued maintenance of private streets, such as a recorded maintenance agreement. Private streets serving more than six dwelling units are permitted only within planned developments, mobile home parks, and multi-family residential developments.

As was stated previously, a private street is proposed to serve this development. The total number of units to be developed in this project is 18. However, this development will be a common wall development, which by their nature, take on a different appearance than a typical single-family detached subdivision. Because of this, the City Council determined that common wall developments could be served from private streets. Therefore, a private street is acceptable.

The proposed width of the private street is 24 feet, curb-to-curb. Traffic generation from the proposed development is estimated to be below 200 average daily trips; therefore, per Table 18.810.1, a 24-foot paved width will adequately accommodate traffic from the development. This width is appropriate for 18 units, but parking will not be allowed on either side of the street. The applicant must install "No Parking" signs on both sides of this street.

The applicant is attempting to save five larger fir and cedar trees along the private street entrance by incorporating two "tree islands". The islands would create travel lanes of approximately 12 feet on either side. Section 902.2.2.1 of the Uniform Fire Code (UFC) states that the minimum unobstructed width of a roadway that would serve fire trucks shall be 20 feet. However, the Fire Marshall's office of Tualatin Valley Fire & Rescue (TVFR) has allowed restrictions such as islands, provided the channel width is not less than 12 feet, and the restriction does not extend beyond the typical length of a fire truck (35 to 40 feet). Based on this allowance, the applicant's proposal will be acceptable. The longest island is approximately 40 feet, which is acceptable to TVFR.

The proposed name of the private street is "SW Blue Heron Place", which is acceptable to the City Engineer.

The applicant shall place a statement on the face of the final plat indicating the private street(s) will be owned and maintained by the properties that will be served by it/them. In addition, the applicant shall record Conditions, Covenants and Restrictions (CC&R's) along with the final plat that will clarify how the private property owners are to maintain the private street(s). These CC&R's shall be reviewed

and approved by the City prior to approval of the final plat. The City's public improvement design standards require private streets to have a pavement section equal to a public local street. The applicant will need to provide this type of pavement section.

**Block Designs - Section 18.810.040.A** states that the length, width and shape of blocks shall be designed with due regard to providing adequate building sites for the use contemplated, consideration of needs for convenient access, circulation, control and safety of street traffic and recognition of limitations and opportunities of topography.

**Block Sizes: Section 18.810.040.B.1** states that the perimeter of blocks formed by streets shall not exceed 1,800 feet measured along the right-of-way line except:

- ♦ Where street location is precluded by natural topography, wetlands or other bodies of water or, pre-existing development or;
- ♦ For blocks adjacent to arterial streets, limited access highways, major collectors or railroads.
- ♦ For non-residential blocks in which internal public circulation provides equivalent access.

The proposed private cul-de-sac will not form or be a part of a continuous block. Therefore, this standard is not applicable.

**Section 18.810.040.B.2** also states that bicycle and pedestrian connections on public easements or right-of-ways shall be provided when full street connection is not possible. Spacing between connections shall be no more than 330 feet, except where precluded by environmental or topographical constraints, existing development patterns, or strict adherence to other standards in the code.

For the reasons discussed previously in relation to the requested variance to cul-de-sac length, staff has determined that a public street connection to abutting properties to the west and south is not necessary. The applicant has proposed extending the sidewalk along one side of the private street to the western edge of the development, in order to provide a potential pedestrian and bicycle connection to future development to the west. As discussed elsewhere in this section, the applicant shall be required to dedicate the area of the sidewalk and path to the public. The proposal satisfies the above criterion.

**Lots - Size and Shape: Section 18.810.060(A)** prohibits lot depth from being more than 2.5 times the average lot width, unless the parcel is less than 1.5 times the minimum lot size of the applicable zoning district.

Although some of the proposed lots do not appear to meet this standard, the planned development criteria allow for flexibility in lot dimensional standards. Therefore, this criterion is not applicable.

**Lot Frontage: Section 18.810.060(B)** requires that lots have at least 25 feet of frontage on public or private streets, other than an alley. In the case of a land partition, 18.420.050.A.4.c applies, which requires a parcel to either have a minimum 15-foot frontage or a minimum 15-foot wide recorded access easement. In cases where the lot is for an attached single-family dwelling unit, the frontage shall be at least 15 feet.

Nearly all of the proposed lots comply with this standard; however, planned development criteria allow for flexibility in lot dimensional standards, as noted above. Therefore, this criterion is not applicable.

**Sidewalks: Section 18.810.070.A** requires that sidewalks be constructed to meet City design standards and be located on both sides of arterial, collector and local residential streets.

Sidewalks are not required on a private street. However, the applicant is proposing to construct a sidewalk on one side of the new private street.

### **Sanitary Sewers:**

**Sewers Required: Section 18.810.090.A** requires that sanitary sewer be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth in Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 1996 and including any future revisions or amendments) and the adopted policies of the comprehensive plan.



**Over-sizing:** Section 18.810.090.C states that proposed sewer systems shall include consideration of additional development within the area as projected by the Comprehensive Plan.

There is an existing 8-inch public line in SW Walnut Street that has adequate capacity to serve this site. The applicant's plan indicates they will install a new public manhole over the existing public line, and extend a new public sewer line into the site within the private street. This new public sewer line is shown to stop short of the western boundary. Since the grades of the property to the west rise above those on this site, the new public sewer could feasibly serve the adjacent parcel. Therefore, the applicant will be required to extend the new sewer line to the western boundary.

**Storm Drainage:**

**General Provisions:** Section 18.810.100.A states requires developers to make adequate provisions for storm water and flood water runoff.

**Accommodation of Upstream Drainage:** Section 18.810.100.C states that a culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development. The City Engineer shall approve the necessary size of the facility, based on the provisions of Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 2000 and including any future revisions or amendments).

The grades of this site fall primarily to the southeast. Currently, any runoff from this site flows into the existing wetland and drainageway along the eastern portion of the site. The proposed plan shows that all onsite runoff will be collected and conveyed toward that wetland and drainageway. The size of the new storm line will be sufficient to handle the flows from this development. Since a private street will serve this development, the new storm line will also be considered privately owned and maintained.

There are existing parcels that border this site that could contribute sheet flows into the back yards of the new lots. The developer should install additional private storm lines in the back yards of the uphill lots to pick up any possible runoff.

**Effect on Downstream Drainage:** Section 18.810.100.D states that where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the Director and Engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with the Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage agency in 2000 and including any future revisions or amendments).

In 1997, the Unified Sewerage Agency (USA) completed a basin study of Fanno Creek and adopted the Fanno Creek Watershed Management Plan. Section V of that plan includes a recommendation that local governments institute a stormwater detention/effective impervious area reduction program resulting in no net increase in storm peak flows up to the 25-year event. The City will require that all new developments resulting in an increase of impervious surfaces provide onsite detention facilities, unless the development is located adjacent to Fanno Creek. For those developments adjacent to Fanno Creek, the storm water runoff will be permitted to discharge without detention.

As was previously stated, the onsite runoff currently flows into the wetland and drainageway along the eastern portion of the site. The applicant's plan maintains that general plan, but proposes to locate their water quality and detention facility within a portion of the current 50-foot buffer and a portion of the existing wetland. USA has reviewed the applicant's proposal and issued a Service Provider Letter. USA is in favor of the plan, because the applicant is proposing to enhance a significant portion of the existing buffer, create additional buffer, and create additional wetland area to compensate for the encroachment. Staff is also in favor of this plan because the end result will be a much more appealing wetland and buffer area. The existing buffer is degraded with significant blackberry growth. The applicant will be required to comply with the conditions of approval listed in the USA Service Provider Letter.

The newly created water quality swale and detention ponds will be sized to accommodate the additional flows created by this development. The preliminary sizing calculations indicate the detention volume, required for this development is approximately 5,800 cubic feet. The applicant's engineer indicates they will provide in excess of 5,800 cubic feet.

#### **Bikeways and Pedestrian Pathways:**

**Bikeway Extension:** Section 18.810.110.A states that developments adjoining proposed bikeways identified on the City's adopted pedestrian/bikeway plan shall include provisions for the future extension of such bikeways through the dedication of easements or right-of-way.

No proposed bicycle or pedestrian paths are shown through the development site on the City's adopted pedestrian/bikeway plan. However, the applicant has proposed extending the sidewalk along the private street to connect to the property to the west. As previously discussed, the sidewalk will be required to be dedicated to the public, in compliance with the requirements of this chapter. The applicant is proposing to construct a pathway with stairs, from the private street to the proposed water quality facility. The homeowners of this development must maintain the pathway and stairs.

#### **Utilities:**

Section 18.810.120 states that all utility lines, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, and:

- ♦ The developer shall make all necessary arrangements with the serving utility to provide the underground services;
- ♦ The City reserves the right to approve location of all surface mounted facilities;
- ♦ All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
- ♦ Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

**Exception to Under-Grounding Requirement:** Section 18.810.120.C states that a developer shall pay a fee in-lieu of under-grounding costs when the development is proposed to take place on a street where existing utilities which are not underground will serve the development and the approval authority determines that the cost and technical difficulty of under-grounding the utilities outweighs the benefit of under-grounding in conjunction with the development. The determination shall be on a case-by-case basis. The most common, but not the only, such situation is a short frontage development for which under-grounding would result in the placement of additional poles, rather than the removal of above-ground utilities facilities. An applicant for a development which is served by utilities which are not underground and which are located across a public right-of-way from the applicant's property shall pay a fee in-lieu of under-grounding.

There are existing overhead utility lines along SW Walnut Street. If the fee in-lieu is proposed, it is equal to \$27.50 per lineal foot of street frontage that contains the overhead lines. The frontage along this site is 45 lineal feet; therefore the fee would be \$1,238.00.

#### **ADDITIONAL CITY AND/OR AGENCY CONCERNS WITH STREET AND UTILITY IMPROVEMENT STANDARDS:**

##### **Traffic Study Findings:**

A traffic impact report was submitted by Stein Engineering, dated May 8, 2000. This report makes mention of a current sight distance issue at the proposed site access. There is a sag vertical curve to the east of this site. Drivers entering SW Walnut Street, from the site access, will have adequate long-range sight distance, but any westbound vehicle will not be visible for approximately one second (while in the low point of the sag curve). This development will not have a significant number of northbound, left-turning vehicles, and the one-second lack of sight distance is not significant. Stein calculated that the level of service (LOS) of the intersection of the new private street and SW Walnut Street will be at LOS B, which is acceptable. They recommend the applicant clear some of the existing vegetation along SW Walnut Street to improve the sight distance. Staff concurs with this finding and recommends the applicant not make any changes to the existing sag vertical curve to the east.

Stein reviewed the need for a left turn lane on SW Walnut Street at the new private driveway location. He notes that the warrants for a left turn lane are marginally met, but that left turning vehicles during the PM peak hour would only have to wait approximately 3.2 seconds for a gap in traffic to make the turn. He also notes that once SW Gaarde Street is opened to SW Walnut Street, the overall traffic volumes on SW Walnut Street will decrease, and the warrants would no longer be met. Since Stein wrote their report, SW Gaarde Street has been opened to SW Walnut Street. Based upon Stein's findings, a left turn lane at the new private street location is not warranted and should not be installed. Stein recommends an alternate mitigation feature of a new advanced intersection warning sign (MUTCD W2-1), that could be located to the east of this site. The sign would warn westbound motorists that they are approaching an intersection. Staff concurs with this recommendation.

The other study intersection reviewed by Stein was at SW Walnut Street/SW 121<sup>st</sup> Avenue. He notes that with signalization, the LOS at this intersection will be at LOS C, which is acceptable. The County is in the process of constructing a signal at this intersection, and it should be completed by Fall 2001.

#### **Public Water System:**

This site will be served from the City's public water system in SW Walnut Street. The Public Works Department will need to review and approve of the overall water line layout for this development prior to construction. The City may require a master meter at the subdivision entrance, thereby rendering the onsite water line as a private line with private meters. The homeowner's association would then need to arrange to pay for the monthly water usage of the development.

#### **Storm Water Quality:**

**The City has agreed to enforce Surface Water Management (SWM) regulations established by the Unified Sewerage Agency (USA) Design and Construction Standards (adopted by Resolution and Order No. 00-7) which require the construction of on-site water quality facilities. The facilities shall be designed to remove 65 percent of the phosphorus contained in 100 percent of the storm water runoff generated from newly created impervious surfaces. In addition, a maintenance plan shall be submitted indicating the frequency and method to be used in keeping the facility maintained through the year.**

Prior to construction, the applicant shall submit plans and calculations for a water quality facility that will meet the intent of the USA Design Standards. In addition, the applicant shall submit a maintenance plan for the facility that must be reviewed and approved by the City prior to construction.

As was stated previously, the applicant's plan indicates they will create an onsite biofiltration swale for treatment of the new stormwater runoff. Since this development is served from a private street, and since the storm drainage system will be private, this water quality facility will also be private. The preliminary sizing calculations indicate the length of the swale will need to be approximately 102 lineal feet. The plan shows that they will have a swale approximately 140 feet in length, which is more than adequate. They have also included a maintenance plan for the facility.

This swale is to be located adjacent to the proposed detention ponds, and is included in the buffer and wetland encroachment area. The applicant will need to comply with the conditions of approval issued in the USA Service Provider Letter.

#### **Grading and Erosion Control:**

**USA Design and Construction Standards also regulate erosion control to reduce the amount of sediment and other pollutants reaching the public storm and surface water system resulting from development, construction, grading, excavating, clearing, and any other activity which accelerates erosion. Per USA regulations, the applicant is required to submit an erosion control plan for City review and approval prior to issuance of City permits.**

**The Federal Clean Water Act requires that a National Pollutant Discharge Elimination System (NPDES) erosion control permit be issued for any development that will disturb five or more acres of land. Since this site is over five acres, the developer will be required to obtain an NPDES permit from the City prior to construction. This permit will be issued along with the site and/or building permit.**

A final grading plan shall be submitted showing the existing and proposed contours. The plan shall detail the provisions for surface drainage of all lots, and show that they will be graded to insure that surface drainage is directed to the street or a public storm drainage system approved by the Engineering Department. For situations where the back portions of lots drain away from a street and toward adjacent

lots, appropriate private storm drainage lines shall be provided to sufficiently contain and convey runoff from each lot.

The applicant has provided a geotechnical report, per Appendix Chapter 33 of the UBC, by GeoPacific Engineering, for the proposed grading slope construction. GeoPacific states that the site can feasibly accommodate the proposed development. The recommendations of the report will need to be incorporated into the final grading plan and a final construction supervision report must be filed with the Engineering Department prior to issuance of building permits.

The design engineer shall also indicate, on the grading plan, which lots will have natural slopes between 10% and 20%, as well as lots that will have natural slopes in excess of 20%. This information will be necessary in determining if special grading inspections and/or permits will be necessary when the lots develop.

Since this site is less than five acres in size, a NPDES permit is not required.

#### **Address Assignments:**

The City of Tigard is responsible for assigning addresses for parcels within the City of Tigard and within the Urban Service Boundary (USB). An addressing fee in the amount of \$30.00 per address shall be assessed. This fee shall be paid to the City prior to approval of the final plat.

For this project, the addressing fee will be \$540.00 (18 lots X \$30/address = \$540.00).

#### **Survey Requirements**

The applicant's final plat shall contain State Plane Coordinates on two monuments with a tie to the City's global positioning system (GPS) geodetic control network. These monuments shall be on the same line and shall be of the same precision as required for the subdivision plat boundary. Along with the coordinates, the plat shall contain the scale factor to convert ground measurements to grid measurements and the angle from north to grid north. These coordinates can be established by:

- ♦ GPS tie networked to the City's GPS survey.
- ♦ By random traverse using conventional surveying methods.

### **SECTION VII. OTHER STAFF COMMENTS**

**The Tigard Building Division** has reviewed this proposal and provided the following comment:

- ♦ Fire hydrants and access to be approved by Tualatin Valley Fire & Rescue.

**The City of Tigard Operations Utility Manager** has reviewed the proposal and provided the following comments:

- ♦ All stormwater facilities, including the water quality tract, shall be privately owned and maintained by a homeowner's association or other private entity.
- ♦ A 15-foot wide public utility easement will be needed centered over the public sanitary facilities within the development.
- ♦ The applicant should set the new sanitary manhole over the existing sanitary line if grades and other utility conflicts allow.
- ♦ The proposed 8-inch public water line within the development will not be allowed. Instead, the applicant shall install, at the property line, a double detector check assembly for fire hydrants in the development. The applicant will install either a master meter at the property line with a double check valve assembly, or will bank individual water meters on Walnut Street, within the right-of-way.

**The City of Tigard Property Manager** has reviewed the proposal and provided the following comment:

- ♦ The proposed stairway/path to the detention facility should be provided with hand-rails and should be of an approved design.

**The Tigard Police Department, and the City of Tigard Long-Range Planning Division** have reviewed the proposal and indicated that they have no objections to the proposal.

**The City of Tigard City Forester** has reviewed the proposal and his comments are included in the preceding discussion of compliance with Tree Removal requirements.

## **SECTION VIII. AGENCY COMMENTS**

**The Tualatin Valley Fire and Rescue Department** has reviewed the proposal and offered the following comments:

- ♦ The gates at the entrance shall be provided with an access option for fire apparatus. Options include an Opticom activated opener or a Knox brand key switch.
- ♦ Where fire apparatus roadways are less than 28 feet wide, "NO PARKING" signs shall be installed on both sides of the roadway and in turnarounds as needed. Where fire apparatus roadways are more than 28 feet wide but less than 32 feet wide, "NO PARKING" signs shall be installed on one side of the roadway and in turnarounds as needed. Where fire apparatus roadways are 32 feet wide or more, parking is not restricted. (UFC Sec. 902.2.4)
- ♦ Signs shall read "NO PARKING – FIRE LANE – TOW AWAY ZONE, ORS 98.810 - 98.812" and shall be installed with a clear space above ground level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have black or red letters and border on a white background. (UFC Sec. 901.4.5.1)
- ♦ Fire hydrant locations shall be identified by the installation of reflective markers. The markers shall be blue. They shall be located adjacent and to the side of the centerline of the access roadway that the fire hydrant is located on. In case that there is no center line, then assume a centerline, and place the reflectors accordingly. (UFC Sec. 901.4.3)
- ♦ The minimum available fire flow for single-family dwellings and duplexes shall be 1,000 gallons per minute. Fire flow documentation shall be provided. If the structure(s) is (are) 3,600 square feet or larger, the required fire flow shall be determined according to UFC Appendix Table A-III-A-1. (UFC Appendix III-A, Sec. 5)
- ♦ Approved fire apparatus access roadways and firefighting water supplies shall be installed and operational prior to stockpiling combustibles on-site or the commencement of combustible construction. (UFC Sec. 8704)

**The Unified Sewerage Agency** of Washington County has reviewed this proposal and has offered comments that have been incorporated into this report.

**The Oregon Division of State Lands** has reviewed the proposal and has offered the following comment:

- ♦ If the stormwater detention facility is within the stream wetland area, a removal/fill permit will be required. It appears the development will not impact the delineated wetland area.

**Northwest Natural Gas** has reviewed the proposal and offered the following questions:

- ♦ The street cross-section needs to be clarified. Does it change between TL 4100 and 4200? Will there be a public utility easement?

**The Oregon Department of Environmental Quality, Washington County Planning Department, US Army Corps of Engineers, Oregon Department of Fish and Wildlife, Portland General Electric, TCI Cable, and Verizon,** were notified, but no comments were submitted.

## **SECTION IX. CONCLUSION**

At the June 11, 2001 public hearing regarding the Blue Heron subdivision, the Planning Commission voted to deny the application, based on the finding that the development would adversely effect the welfare of the City.

At the hearing, additional materials were submitted, including a letter from Margie Kessler, of 12425 Alberta Street; a letter from Douglas and Nancy Lou Nash, of 12270 Alberta Street; a letter from Julie Rau and Jim Vandehey, of 12430 SW Walnut Street; and a revised tree inventory from the applicant. Copies of these submitted materials are attached to this final order.

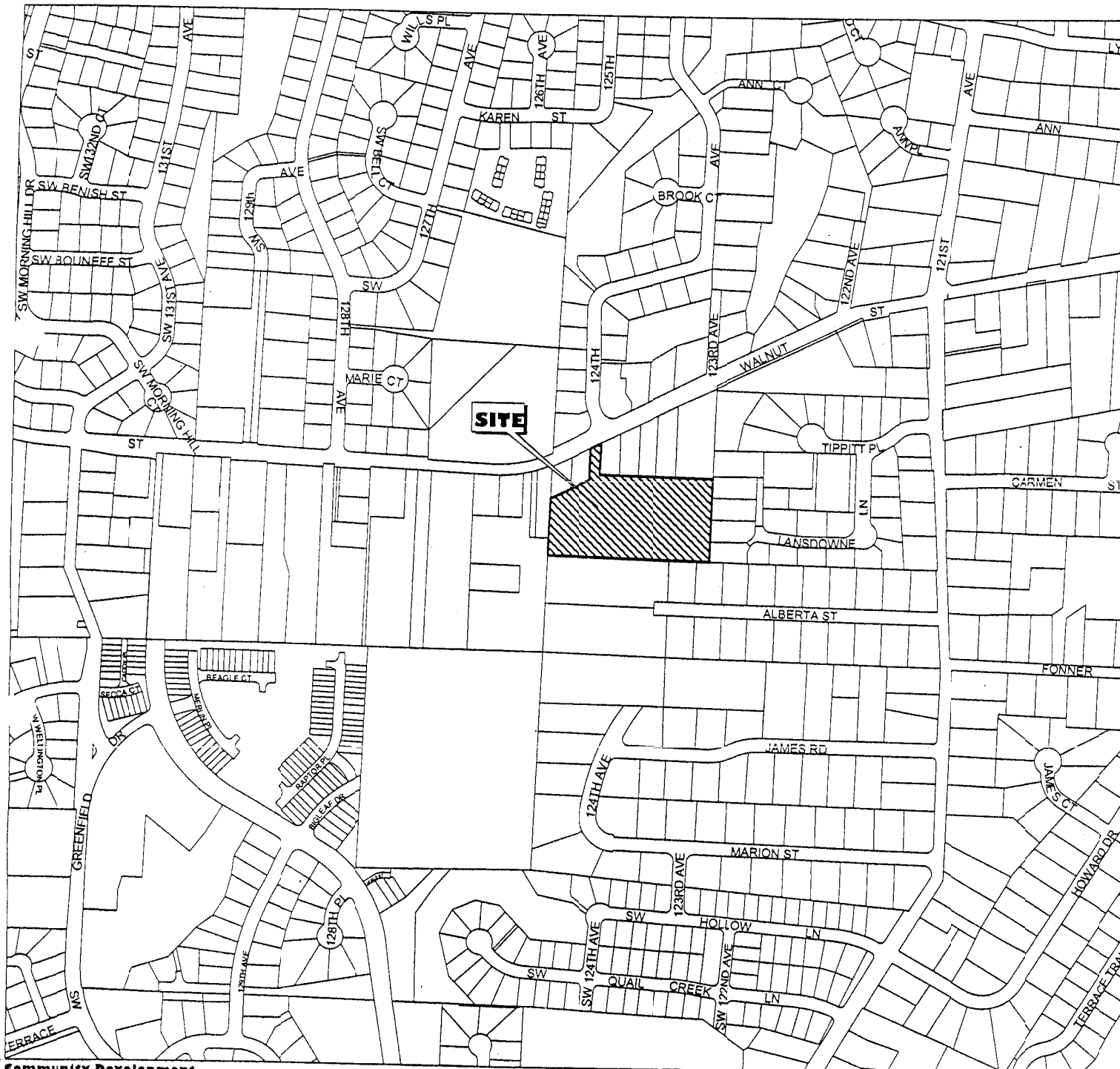
**IT IS FURTHER ORDERED THAT THE APPLICANT AND THE PARTIES  
TO THESE PROCEEDINGS BE NOTIFIED OF THE ENTRY OF THIS ORDER.**

PASSED: This 11<sup>th</sup> day of June, 2001 by the Planning Commission of the City of Tigard, Oregon.

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Nick Wilson, President  
City of Tigard Planning Commission

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**CITY of TIGARD**

GEOGRAPHIC INFORMATION SYSTEM

## VICINITY MAP

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SUB2001-00001  
 PDR2001-00001  
 ZON2001-00002  
 SLR2001-00003  
 VAR2001-00002

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**BLUE HERON PARK  
 SUBDIVISION**

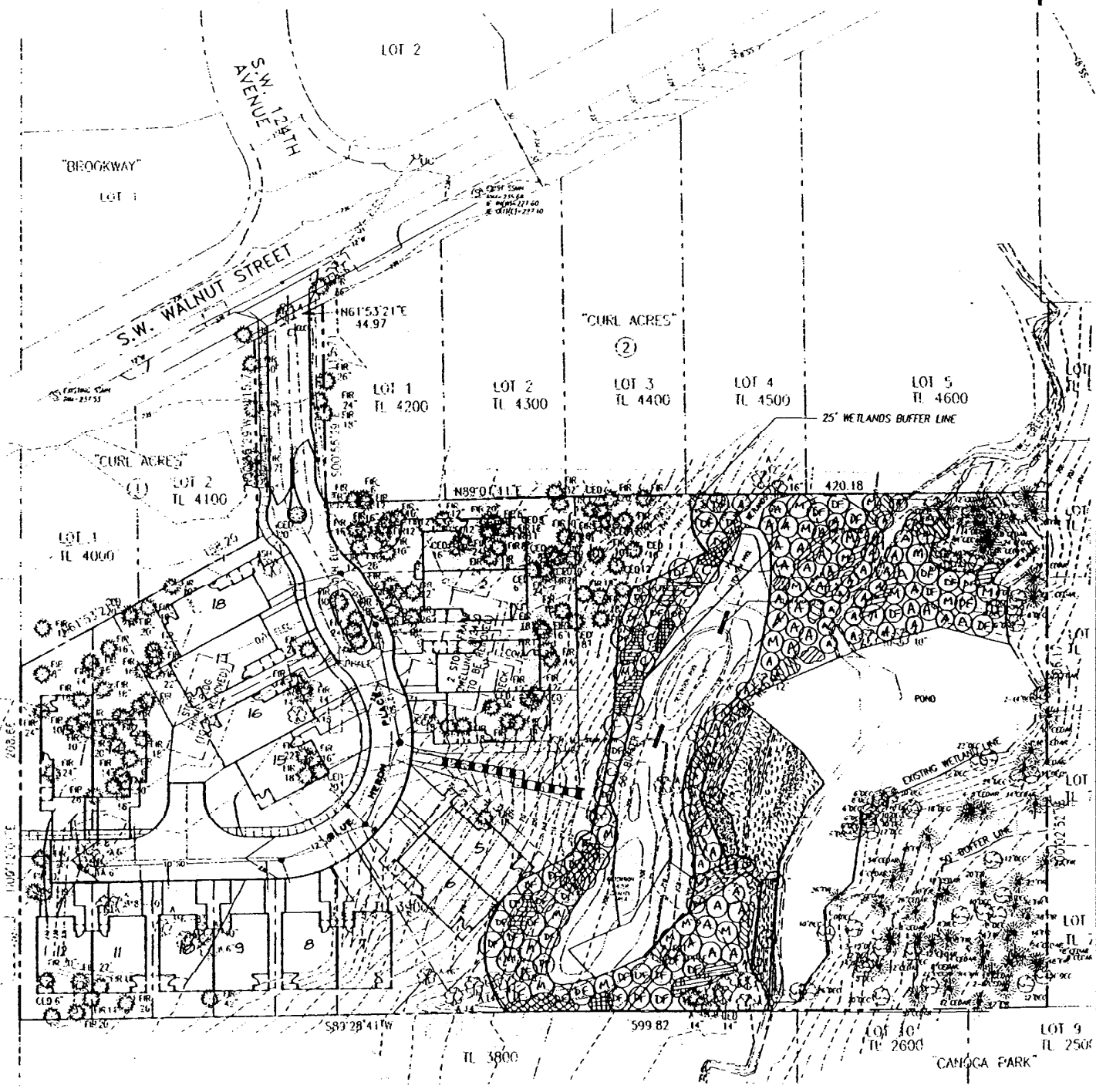


0 400 800 Feet  
 1" = 501 feet



City of Tigard

Information on this map is for general location only and  
 should be verified with the Development Services Division  
 13125 SW Hall Blvd  
 Tigard, OR 97223  
 (503) 639-4171  
<http://www.ci.tigard.or.us>



**CITY OF TIGARD** ↑  
**SITE PLAN**  
(Map is not to scale) **N**

SUB2001-1/PDR2001-1/ZON2001-2/SLR2001-3/VAR2001-2  
**BLUE HERON PARK SUBDIVISION**



**CITY OF TIGARD**  
**PLANNING COMMISSION**  
**Meeting Minutes**  
June 11, 2001

**1. CALL TO ORDER**

President Wilson called the meeting to order at 7:30 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

**2. ROLL CALL**

Commissioners Present: President Wilson; Commissioners Anderson, Mores, Munro, Padgett, Olsen, and Sutton

Commissioners Absent: Commissioners Sclar and Topp

Staff Present: Dick Bewersdorff, Planning Manager; Kevin Young, Associate Planner; Brian Rager, Development Review Engineer; Matt Stine, Urban Forester; Liz Newton, Assistant to the City Manager; Jerree Gaynor, Planning Commission Secretary

**3. PLANNING COMMISSION COMMUNICATIONS**

None

**4. APPROVE MEETING MINUTES**

Commissioner Padgett moved and Commissioner Olsen seconded the motion to approve the May 7, 2001, meeting minutes as submitted. A voice vote was taken and the motion passed by a vote of 5-0. Commissioners Mores and Munro abstained.

**5. PUBLIC HEARING**

**5.1 SUBDIVISION (SUB) 2001-00001/PLANNED DEVELOPMENT REVIEW (PDR) 2001-00001/ZONE CHANGE (ZON) 2001-00002/SENSITIVE LANDS REVIEW (SLR) 2001-00003/VARIANCE (VAR) 2001-00002  
BLUE HERON PARK SUBDIVISION**

**REQUEST:** Approval of an 18-lot subdivision on 4.15 acres. The lots are to be developed with attached single-family homes. Lot sizes within the development average just over 3,800 square feet. Development is to be clustered on the west side of the development site, allowing for the preservation and enhancement of the pond, wetland, and stream area on the eastern portion of the property. A sensitive lands review is required for the development due to the presence of steep slopes, a wetland, and a natural drainageway on the site. **LOCATION:** 12450 SW Walnut Street; WCTM 2S103BC, Tax Lot 3900. The project site is located on the south

side of SW Walnut Street, opposite of SW 124<sup>th</sup> Avenue and west of SW 121<sup>st</sup> Avenue. **ZONE:** R-4.5: Low-Density Residential District. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters: 18.350, 18.370, 18.380, 18.390, 18.430, 18.510, 18.705, 18.715, 18.720, 18.725, 18.730, 18.745, 18.765, 18.775, 18.790, 18.795, 18.797 and 18.810.

## **STAFF REPORT**

Kevin Young, Associate Planner, presented the staff report on behalf of the City and summarized the applicant's proposed development. The residential development will be clustered on the western side of the property, away from the sensitive land areas on the eastern portion of the property. The development would create a series of storm water detention ponds adjacent to the existing wetland pond area, reserving approximately 2 acres of the 4.15-acre site as open space. The base density of the site is 16.18 dwellings. The applicant requests density bonuses to allow for an additional two dwelling units. Staff recommends approval of the density bonuses. A change is also recommended to the conditions of approval: Conditions 27 and 28 regarding tree mitigation. Some trees that were designated as dead, diseased or dying are actually trees that would be impacted by the development process and therefore should be mitigated. The applicant desires to meet the 75% tree preservation threshold. Conditions 27 and 28 should be changed to add the stipulation "if required by the City Forester."

President Wilson asked if the applicant has had an arborist look at the trees that are to be saved. For example, there is one tree surrounded by paving and he believes that tree will not survive. Mr. Young responded that he has discussed this with the City Forester. The compacted soil around the trees will help ensure their survival. The applicant will respond to this issue in more detail.

In regard to the zone change standards addressed on page 9, Section VI, paragraph A3, of the staff report, Commissioner Padgett asked what change in the neighborhood took place or what mistake in the comprehensive plan or zoning map occurred. Mr. Young advised that the proposed development involves the adoption of a planned development overlay on the existing zone. There is no comprehensive plan issue and no change to the underlying low density residential zone.

President Wilson asked if the density bonus is subject to variance. Mr. Young advised that the provisions for the density bonus are contained in the planned development ordinance and the tree preservation ordinance. A density bonus is allowed if a proposed design achieves certain goals. Within those provisions there is an absolute cap of 10%. In this case, the applicant has requested density bonuses under four different areas that total 7% under the PUD provisions. The applicant has additionally requested density bonuses under the tree preservation ordinance. Those standards

allow for 1% of density bonus for every 2% of currently existing tree canopy preserved on the site up to a maximum of 20%. In this area, the applicant is requesting a 4.3% density bonus. Allowance of a density bonus is at the Planning Commission's discretion.

### **APPLICANT'S PRESENTATION**

Matthew Sprague and Magnus Bernhardt from Alpha Engineering, 9600 SW Oak Street, Suite 230, Portland, OR 97223, presented the applicant's request. A map showing the location of the site and surrounding land uses was presented to the Commission. Details of the site's wetland area, open space, and slopes were summarized. The applicant desires to retain the existing natural features of the site as much as possible. Of the 4.15-acre site, 2.09 acres will be retained as open space and development will be centered on the western portion of the site. Access to the site is from SW Walnut Street.

The proposal includes a gate at the entrance to the site, a 32-foot right-of-way with a 5-foot sidewalk on one side, off-street parking, 18 attached dwelling units with arbors and porches, and street trees on both sides of the street. Also proposed is a water quality facility and a graded corridor, with improvements to the natural flow of water by creating ponds that will pool the north-south drainage flow. There will be intensive planting of vegetation and trees for screening and shade. Details were presented regarding preservation of existing vegetation and proposed new plantings. All of the existing vegetation on the north will be retained, as well as 75% of existing trees on the site that are over 12 inches in diameter. Development impacts will be offset by enhancing other parts of the project.

In regard to tree islands and survival of the trees, an arborist has looked at them and believes the plan will work. Extensive discussions with the City Forester have resulted in the requirements set forth on Exhibit A attached to these minutes. Due to the imposition of these requirements, the applicant requests that the language "if required" be added to conditions 27, 28, and 29 as it relates to mitigation based on the City Forester's requirements.

Density bonuses can be requested in one area up to 10%, and for preservation of trees, up to 20%. The applicant is requesting a 7% density bonus under the planned development provisions as a result of the proposed streetscape, sidewalk, architectural design, and other improvements. The applicant is also requesting a 4.3% density bonus for the retention of trees and enhancement of the wetland areas.

Mr. Sprague responded to comments and concerns expressed by the Commission:

- ◆ Gated community – applicant believes the gate adds value to the project, increases the value of the proposed units, and ensures the retention of existing values in the vicinity. Applicant concedes that gating is optional.

- ◆ Building on slopes – the proposed units will have higher foundations than a typical house.
- ◆ Tree islands in street and survival of trees – due to site constraints, the currently existing three islands will be paved over and two islands will be created. A condition can be imposed requiring the applicant to replant any trees that do not survive. Upon sale of the units, the landscape islands will be owned by the homeowners association and landscape maintenance would be included either in the agreement for maintenance of the private street, in the CC&R's, or required through deed restrictions.

### **PUBLIC TESTIMONY - IN FAVOR**

None

### **PUBLIC TESTIMONY - IN OPPOSITION**

Jim Vandehey, 12430 SW Walnut, Tigard, OR 97223: A copy of Mr. Vandehey's testimony is attached as Exhibit B to these minutes.

In regard to the lot size and configuration issue, Mr. Young stated that the planned development ordinance being applied here allows for more flexibility. The proposed clustered development is intended to limit the impacts on the sensitive environment area. The creation of smaller lots permits a larger amount of open space. Minimum lot size standards were discussed. This proposal would not create flag lots, each lot will have frontage to the street, and therefore that standard does not apply.

In regard to screening along the street, the Commission has discretion as to what can be required.

In regard to the height issue, the planned development ordinance provides flexibility for hard to develop properties and building height provisions do not apply. Planned development bonuses may be granted at the Commission's discretion. It is up to the applicant to prove that the requested bonuses are justified. The R-4.5 zone allows a maximum height of 30' and the proposed dwellings are 25' or less.

Regarding the utility line issue, Brian Rager advised that the development code contains provisions for streets that have overhead utility lines. The City has the option to require the developer to bury the lines or pay a fee in lieu of burying.

Sharon Murphy, 12470 SW Walnut, Tigard, OR 97223, stated that her property is next to the project entrance. She expressed concerns about traffic and damage to trees on the site abutting her property during excavation and the potential destruction of this natural barrier. She is also unhappy about the view of the new units from the back of her lot and concerned about the noise that will be created by the entrance gate being opened and closed several times a day.

Margie Kessler, 12425 SW Alberta St., Tigard, OR 97223: A copy of Ms. Kessler's testimony is attached as Exhibit C to these minutes. Ms. Kessler also submitted petitions signed by neighbors and a written statement from Doug & Nancy Nash, attached as Exhibit D to these minutes. She requested that the record be held open for 7 days so that her questions can be answered.

Delbert Fennel, 12355 SW Alberta St., Tigard, OR 97223, testified that his property adjoins the SE corner of the site and he is also concerned about traffic and access issues.

Milt Fyre, 12121 SW Lansdowne Lane, Tigard, OR 97223, stated that the proposed subdivision is to the east of his property. He is opposed to the project because it is not consistent with the surrounding area and believes the property should be developed less densely to keep more in line with existing densities in the area.

Barry Reynolds, 12262 SW Lansdowne Lane, Tigard, OR 97223, expressed concern regarding the turbidity caused to the pond during previous development and asked what this developer will do to protect the pond. He also asked about utilities along the new access road, how construction will be accomplished on the steep slopes, and whether fill will be brought in. The applicant advised that the proposed plan only shows the approximate locations of the units and that it is likely that a small amount of fill will be brought in.

#### **APPLICANT'S REBUTTAL**

Matt Sprague and Magnus Bernhardt responded to concerns and questions from the public and the Planning Commission.

Regarding access into the subdivision, Walnut Street is a busy street, but with the new light at the intersection of 121<sup>st</sup> Avenue, they believe there will be breaks in the traffic that will help people to make left turns into the new subdivision.

The walkway from the homes goes to the maintenance pond and is not proposed to go anywhere from that point. It will not cross the pond. In the future, the open space may be developed into a corridor and dedicated to the City.

Regarding fill, grading activities will be limited to the street and water quality facility; most of the property will be left at existing grade.

They reported that there are trees along both sides of the private drive. Some of the trees are on neighboring properties and some are on the site. The applicant's arborist looked at the trees to determine what trees could be saved and what impacts would occur.

Sprague advised that some of the houses closest to the wetlands will be 25' high in the back.

Regarding Mrs. Kessler's concerns about privacy, the applicant stated that the closest house would be about 70' away. They believe that the new homeowners will want to fence their properties. The applicant said they would be willing to work with Mrs. Kessler to see that her privacy is maintained.

Sprague testified that the proposed new homes would range in price from \$180,000 to \$200,000 and would not have any negative impact on existing homes. He believes the subdivision is well designed by saving 75% of the trees, enhancing the open space with plantings, and maintaining privacy.

Regarding noise from the gate, Sprague advised that it would be a swinging gate, not rolling, and if maintained properly, it will be quiet. The gate will be activated with a key pad.

Commissioner Munro asked if the steps down to detention ponds could be used by the neighbors to make their way to the ponds. Sprague answered that the steps could be easily negotiated with a handrail, but this is a sensitive area and recreational use should be discouraged. The steps should be used primarily for maintenance.

Commissioner Sutton asked about the foundation walls on lots 5, 6, 4, 7, and 8. The applicant advised that the foundations would be larger in the back of those lots, but no neighbors will be able to see them.

Milt Fyre commented that neighbors live across the pond and they will be able to see the new homes. Dick Bewersdorff advised that the homes will meet building code requirements and Matt Sprague noted that new plantings in the wetlands will enhance the area.

### **PUBLIC HEARING CLOSED**

Kevin Young demonstrated how to do the density calculations. He noted that the applicant has requested density bonuses through the PUD provisions. The result of that request was 1 unit. A density bonus for tree preservation resulted in another unit for a total of 18 dwelling units.

President Wilson asked if the City is getting anything of value for the density bonuses. Dick Bewersdorff noted that the City uses density bonuses to encourage people to use the PD process. He said that granting of the bonuses is at the discretion of the Planning Commission.

Commissioner Padgett asked about our current status with meeting Metro's density goals. Dick Bewersdorff answered that as long as we meet the minimum density for all zones, we will meet Metro's goals.

Commissioner Olsen commented that he hates to see gates and that he is concerned about silt and the future of the ponds.

Commissioner Sutton asked if fences were allowed in the wetland buffer zone. Kevin Young answered that USA has required the buffer for this development, and he characterizes it more as a vegetated corridor than a buffer. The City does not require the buffer on a minor stream. He said that since USA is requiring some enhancement plantings in that area, we wouldn't be excited about fencing. However, there is no condition in staff report that addresses that issue. Matt Sprague noted that USA likes the facility and the enhancements of this development and lets them go into the buffer area.

Dick Bewersdorff advised that the City code allows fences in sloped areas and drainage areas; the only exception being the floodway.

Commissioner Munro asked if the City should require the developer to dedicate this area as a park area. Bewersdorff said this area probably would not fit into our park plans. It's best to leave it alone as a passive open space.

In response to an earlier question, Kevin Young advised that the minimum density for this parcel would be 12.30 units.

Commissioner Mores also doesn't like gated communities but is in favor of this project. He noted that the City is looking for higher density opportunities in the neighborhood.

Commissioner Munro thinks the developer has met the criteria for this project and would vote favorably.

President Wilson doesn't think anything merits a density bonus and would be in favor of denying the bonus, but otherwise approving the application.

Commissioner Sutton agreed with President Wilson. He said he was not excited about several aspects of the project, but it seems the project meets the letter of the code.

Commissioner Olsen said he believes in the urban boundary limits, and likes what they proposed with this project. He is in favor of the development.

Commissioner Anderson believes the applicant did a good job of planning the project, but she is not convinced of the need for higher density in that area. She believes this project is inconsistent with the rest of the development in the area and is opposed to granting the planned development.

Commissioner Padgett thinks that higher density developments are adverse to the welfare of the City and what it stands for. He is tired of shoehorning small residences into lots just because we can. He believes we have to look at how it affects the culture of the City, so he is not in support of this proposal. He is against the density bonus.

Mrs. Kessler withdrew her request to hold the record open for 7 days.

Commissioner Padgett moved that the Planning Commission deny Subdivision 2001-00001/Zone Change 2001-00002/ PDR 2001-00001/SLR 2001-00003/Variance 2001-00002. Commissioner Anderson seconded motion. A voice vote was taken and the motion passed 4-3. Commissioners Padgett, Anderson, Sutton, and Wilson voted yes; Commissioners Olsen, Munro, and Mores voted no.

Dick Bewersdorff advised that the Commission would have to develop findings for their decision. Commissioner Padgett said it was based on the testimony heard tonight, opinions expressed by the Planning Commissioners during deliberations, and answers to questions from staff, that it will adversely affect the welfare of the City. Because of that, it cannot be approved.

Commissioner Munro offered a minority opinion, saying that she does not see a major adverse effect or even a significant adverse effect. She thinks it promotes exactly what the urban growth boundary is about and that it meets the criteria of the density. She believes the plan is sound and she does not disagree with it. She noted that the City is trying to encourage diversity in our housing and she believes it is an important factor in the diversity and culture of our City.

The Commission took a 10 minute break and reconvened at 10:00 p.m. Commissioner Mores left the meeting at 9:55 p.m.

## **6. OTHER BUSINESS**

- ♦ Matt Stine, Urban Forester, provided an update on the Fanno Creek Park Enhancement Plan.
- ♦ Liz Newton, Assistant to the City Manager, and Chris Merkel from Tualatin Valley Community Access Cable Company, offered a brief training session on proper techniques for being on camera (attached as Exhibit E).

## **7. ADJOURNMENT**

The meeting adjourned at 10:35 p.m.

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Jerree Gaynor, Planning Commission Secretary

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ATTEST: President Nick Wilson



JUN 11 2001

## CITY OF TIGARD

Point No.	Survey Code	Species	DBH	Ht	CR%	CRAD [ft.]	Damaging Agents	DDDD	Retain	Remove	Comments.....
575	evF36	Douglas-fir	40						40		
577	evF32	Douglas fir	34						34		
578	evF30	Douglas-fir	30						30		
579	evF34	Douglas-fir	36						36		
580	evF30	Douglas-fir	30						30		
583	evF18	Douglas-fir	20						20		
584	evF24	Douglas-fir	26						26		
585	evF26	Douglas-fir	26						26		
658	evC20	western redcedar	20						20		
660	evF26	Douglas-fir	28						28		
661	evF14	Douglas-fir	14	120	30	10	WIND			14	disallowed
662	evF14	Douglas-fir	14	120	30	10	WIND			14	disallowed
663	evF14	Douglas-fir	14	115	30	10	WIND			14	disallowed
664	evM2X18	bigleaf maple	18							18	
664		bigleaf maple	22							22	
665	evF22	Douglas-fir	22							22	
666	evF16	Douglas-fir	16							16	
667	evC20	western redcedar	20				DCTO DEBR	20			additional DDDD
668	evF18	Douglas-fir	18				LEAN 15% WIND	18			additional DDDD
669	evF30	Douglas-fir	34						34		
670	evF24	Douglas-fir	24						24		
671	evF18	Douglas-fir	18						18		
672	evF30	Douglas-fir	32						32		
674	evF16	Douglas-fir	16						16		
677	evF16	Douglas-fir	16						16		
679	evF16	Douglas-fir	16						16		
683	evF28	Douglas-fir	28							28	retain?
684	evF16	Douglas-fir	16	125	30	10	WIND			16	disallowed
685	evF16	Douglas-fir	16	125	30	10	WIND			16	disallowed
686		Douglas-fir	16	125	40	10	WIND			16	disallowed
687	evF26	Douglas-fir	26	125	40	15	WIND STCR	26			
689	evF22	Douglas-fir	22	125	40	15	WIND STCR	22			
690	evC16	western redcedar	16							16	
692	evF24	Douglas-fir	24							24	
693	evF12	Douglas-fir	14	110	30	10	WIND			14	disallowed
698	evF20	Douglas-fir	20							20	
704	evF18	Douglas-fir	18	115	30	10	WIND			18	disallowed
705	evF24	Douglas-fir	24							24	
706	evF26	Douglas-fir	26						26		
707	evF24	Douglas-fir	24						24		
709	evC20	western redcedar	20						20		
713	evF16	Douglas-fir	16						16		
715	evF18	Douglas-fir	18						18		
716	evC18	western redcedar	18						18		
717	evF18	Douglas-fir	18						18		
718	evF18	Douglas-fir	18						18		

Point No.	Survey Code	Species	DBH	Ht	CR%	CRAD [ft.]	Damaging Agents	DDDD	Retain	Remove	Comments.....
719	evF20	Douglas-fir	20						20		
720	evF30	Douglas-fir	30						30		
723	evC16	western redcedar	16						16		
724	evC16	western redcedar	16						16		
725	evF30	Douglas-fir	30						30		
726	evF20	Douglas-fir	20						20		
730	evF16	Douglas-fir	16						16		
731	evF32	Douglas-fir	32						32		
732	evF20	Douglas-fir	20						20		
733	evF22	Douglas-fir	22						22		
816	evA16	red alder	16						16		
899	evA20	red alder	20						20		
900	evA24	red alder	24						24		
901	evA20	red alder	20						20		
903	evA18	red alder	18						18		
904	evC14	western redcedar	14						14		
905	evA14	red alder	14						14		
908	evA16	red alder	16						16		
935	evA18	red alder	18						18		
936	evA14	red alder	14						14		
937	evA14	red alder	14						14		
938	evA14	red alder	14						14		
939	evA16	red alder	16						16		
940	evA14	red alder	14						14		
947	evA14	red alder	14						14		
953	evF18	Douglas-fir	18						18		
954	evF16	Douglas-fir	16						16		
956	evF14	Douglas-fir	14				DEAD	14			
957	evF14	Douglas-fir	14							14	
960	evF14	Douglas-fir	14							14	
961	evC36	western redcedar	36							36	
962	evF24	Douglas-fir	24							24	
963	evF18	Douglas-fir	18							18	
964	evF18	Douglas-fir	18	120	60	15				18	*
966	evM22	Oregon ash	22				DETO DCAY	22			
968	evF18	Douglas-fir	18							18	
1036	evF42	Douglas-fir	42				DETO PHSC	42			
1043	evF26	Douglas-fir	26							26	
1044	evF18	Douglas-fir	18	120	30	15	STCR WIND	18			
1045	evF14	Douglas-fir	14							14	
1046	evF22	Douglas-fir	26							26	
1047	evF20	Douglas-fir	20						20		cng.to "retain"
1049	evF30	Douglas-fir	30							30	
1083	evF30	Douglas-fir	30						30		
1084	evF24	Douglas-fir	24				STCR		24		cng.to "retain"
1085	evF26	Douglas-fir	26						26		

Point No.	Survey Code	Species	DBH	Ht	CR%	CRAD [ft.]	Damaging Agents	DDDD	Retain	Remove	Comments.....
1092	evF28	Douglas-fir	36								
1094	evF24	Douglas-fir	24							36	
1095	evF18	Douglas-fir	18							24	
1097	evF14	Douglas-fir	14				CROK			18	
1099	evF20	Douglas-fir	20							14	
1103	evF26	Douglas-fir	26							20	
1105	evF18	Douglas-fir	18							26	
1106	evF14	Douglas-fir	14							18	
1108	evF18	Douglas-fir	18							14	
1111	evF14	Douglas-fir	14							18	
1112	evF18	Douglas-fir	18						14		
1114	evF14	Douglas-fir	14							18	
1115	evF16	Douglas-fir	16						14		
1116	evF16	Douglas-fir	16						16		
1117	evF22	Douglas-fir	22						22		
1119	evF22	Douglas-fir	22						22		
1120	evF20	Douglas-fir	20						20		
1121	evC14	western redcedar	14						14		
3073	ETR	Douglas-fir	16						16		
3074	ETR	Douglas-fir	20						20		
3075	ETR	western redcedar	14						14		
3077	DTR	Oregon ash	20						20		
3079	ETR	Douglas-fir	20						20		
3080	DTR	Oregon ash	20						20		
3081	ETR	Douglas-fir	14						14		
3083	ETR	western redcedar	14						14		
3085	ETR	western redcedar	24						24		
3086	ETR	western redcedar	16						16		
3087	ETR	western redcedar	20						20		
3088	ETR	western redcedar	22						22		
3090	DTR	Oregon ash	16						16		
3093	DTR	Oregon ash	16						16		
3100	DTR	red alder	14						14		
3120	ETR	Douglas-fir	26						26		
3146	DTR	red alder	15						15		
3147	DTR	bigleaf maple	26						26		
3149	DTR	red alder	14						14		
3152	DTR	Oregon ash	20						20		
3157	DTR	Oregon ash	20						20		
3158	ETR	western redcedar	18						18		
3160	ETR	western redcedar	34						34		
3161	ETR	Douglas-fir	48						48		
3162	DTR	Oregon ash	18						18		
3162	DTR	Oregon ash	18						18		
3165	DTR	bigleaf maple	22						22		
3168	ETR	western redcedar	20						20		

Point No.	Survey Code	Species	DBH	Ht	CR%	CRAD [ft.]	Damaging Agents	DDDD	Retain	Remove	Comments.....
3170	DTR	red alder	14						14		
3170	DTR	red alder	14						14		
3172	ETR	western redcedar	16						16		
3173	DTR	bingleaf maple	30						30		
3174	DTR	bingleaf maple	24						24		
3175	DTR	bingleaf maple	20						20		
3176	ETR	western redcedar	14						14		
3180	ETR	western redcedar	26						26		
3181	ETR	Douglas-fir	30						30		
3182	ETR	western redcedar	18						18		
3183	ETR	Douglas-fir	20						20		
3184	ETR	Douglas-fir	22						22		
3185	ETR	Douglas-fir	18						18		
3187	ETR	Douglas-fir	16						16		
3191	ETR	Douglas-fir	18						18		
3192	ETR	Douglas-fir	14						14		
3193	ETR	Douglas-fir	24						24		
3194	ETR	Douglas-fir	18						18		
3196	ETR	western redcedar	16						16		
3198	ETR	Douglas-fir	14						14		
3206	DTR	bingleaf maple	22						22		
3208	ETR	Douglas-fir	44						44		
3209	ETR	Douglas-fir	42						42		
3212	DTR	red alder	16						16		
3214	DTR	red alder	14						14		

Point No.	Survey Code	Species	DBH	Ht	CR%	CRAD [ft.]	Damaging Agents	DDDD	Retain	Remove	Comments.....
Total # All Trees >12":			162					8	116	38	
Total # Trees Minus DDDD:			154								
Percent Trees Minus DDDD:			100%						75.3%	24.7%	
Tigard Mitigation Category:										0%	
Average DBH:									21	inches	
Estimated % canopy cover retained - trees >12"DBH (proportionate to dia. retained):									72%		
Notes:		DDDD: Dead, Dying, Diseased, Dangerous trees									
		Damaging Agents: See Table 2. Tree Damage Codes									
Sum of DBH >12			3371	in.				182	2433	756	
% DBH Retained									72%		
Mitigation @ 50%								378			
Number of 2-inch trees								189			
Wholesale Cost/Tree (Bare Root)								\$ 40			
Installation							\$ 60				
Total Cost/Tree							\$ 100				
Total Cost							\$ 18,900				
Total Cost (Rounded)							\$ 20,000				
Notes: Tree costs are based on wholesale cost for 1 3/4" caliper maples (various spp.) at J. Frank Schmidt Nursery. Installation cost includes hauling, planting, and guarantee. Past experience indicates that City of Tigard will accept 1 3/4 inch caliper stock in lieu of 2 inch caliper, and bare root stock in lieu of B&B or containerized.											

Exhibit  
B

## BLUE HERON PARK SUBDIVISION

### Testimonial

Submitted by: Julie Rau & Jim Vandehey

12430 SW Walnut St.

Tigard, OR 97223

## TIGARD DEVELOPMENT CODES

### 18.430.010 PURPOSE:

A. (4)....."To lessen congestion in streets..."

Staff Report pg. 29 ITE manual figures & TIF ord. show 10 trips per day x 18 units = 180 T.P.D.

Using a common drive that is historically only had 10, this is a huge increase to a collector street such as Walnut.

Walnut St. is currently closed @ 121st and still we have 30 or more motorists a day try to get through. (3 am this day, no different).

### Staff Report pg. 34

Traffic study used calls out 3.2 seconds waiting time during peak hours (pm) to left turn into new development. I, personally, have waited many minutes, many times. No mention of am traffic could be found in the same report.

We believe Walnut St. traffic will resume heavily next month when 121st opens. With Gaarde also open, this would be an opportunity to take a new study. We propose you wait on your decision until that time.

### 18.430.010 Purpose:

A.5...To prevent overcrowding of land...

### 18.430.020

D. Lot sizing may be averaged. No lot created shall be less than 80% underlying zone...

Existing zone R.4.5 = 7500 sq. ft. 80% = 6000 sq. ft.

Staff recommends 2/3 @ 3800 sq. ft.

18-430-2

### COMMENT:

Is this an arbitrary adjustment to code? What basis?

**18-370-1**

18.370 Variances can be approved, finding: C 2a. The proposed variance will not be materially detrimental to other properties in the same vicinity.

**COMMENT:**

We believe this action will decrease the value of our property.

**18-510-1**

**18.510.01 PURPOSE:**

Major purpose is to protect the liveability of existing and future neighborhoods.

**18-510-1**

**18.510.020 D R4.5 Low Density**

Attached single family permitted conditionally.

**PURPOSE:**

Liveability of existing neighborhoods paramount. "Conditional use allows **YOU**, the Planning Commission, to make decisions on what is valid criteria".

**18-720-1**

**18.720.010. PURPOSE:**

Establishes standards for design compatibility between attached single family when abutting single family neighborhoods.

**A.1)** Ensure that structures do not present excessive visual mass or bulk to adjoining properties.

**4)** Encourage architectural design that integrates well with adjoining development.

**18.720.020**

These provisions apply to **ALL** attached single family projects R4.5 - R4.0 that abut property zoned for single family development.

**18.780.030 Design Standards:**

Building height shall not exceed 25 ft. within 30 ft. of property line.

**18.730.020 Exceptions to Building Height:**

**18-730-1**

**C 1 a** Limitations - Flag lot was created prior to April 15, 1985.

**C 2** The maximum height for attached single family having sole access from private drive is 1 1/2 stories or 25 ft. - whichever is less.

**18-730-2**

**C 2** maximum may be 2 1/2 story or 35' provided:

**18.730.020**

**2b** - 10 ft. sideyard

**2d** - windows 15 ft above grade shall not face windows or paths on any abutting lot unless plant trees capable of mitigating direct views.

**COMMENT:**

We ask, since the existing subdivision created the flag lot that is currently requesting subdivision, conditions should co-exist. Existing subdivision are all single family units. Maximum height should be 1 1/2 stories along perimeter of development abutting SFD.

Visual sight is only mitigated a few months of the year with trees. It takes several years for them to grow enough to work.

**18.725 Environmental Issues:**

Compliance with state laws: No NPDES permit required. However, evidence of fill material @ west end of site brings up the question of contamination: We ask for testing when the soil is removed.

**18-725-1**

**18.725.030 A. Noise:**

Impact study quote: "No negative noise impact will result from this project.....The site is no closer than 100 ft from SW Walnut St. and is buffered by existing development and vegetation"..



**COMMENT:** We are the existing development. We feel we have the right to some protection. Therefore, we ask for fencing and vegetation along perimeter of existing development.

**18.7454.010 A. Purpose:**

Enhance the aesthetic environmental quality of the city.

**18-745-1**

**A4.** By using trees and other landscape materials to mitigate lack of privacy by provision of buffering and screening.

**18-745-1**

**18.745.020**

Provisions of this chapter apply to all developments.

**18-745-5**

**18.745.050 A.**

Intent of chapter: Provide Privacy and protection.

**18-745-5**

**18.745.050 5c**

A fence or wall shall be constructed to provide continuous sight obscuring screen.

**18-765-4**

**18.769.040 B3**

Access drives shall be clearly and permanently marked through use of fences, wall or other barriers.

**18.745 / 18.765 / Staff Report pg. 14, B3**

He states that driveway and street will be inside the development. However, the drive continues to Walnut St. between 2 properties with existing homes on them. No buffer or screening is called out for this area.

**COMMENT:**

Therefore, we ask the Commission to require screening on both sides of drive access with: 1) a 6 ft. wall or 2) combination of fence and hedge as in table 18.745.2, C 2 or 3, installed in accordance with visual clearance 18.795 requirements at Walnut St.

**18.810.120 Utility Lines**

**18-810-4**

All utilities shall be placed underground

This is consistent with existing development and future Walnut St. improvements.

**COMMENT:**

We ask the Commission to uphold this code, not an "in-lieu-of-payment". (Staff Report pg 34).

Current situation: Overhead lines attached to 36" tree scheduled for removal.

Exhibit  
C

## BLUE HERON PARK SUBDIVISION.

Testimony by Margie Kessler  
12425 SW Alberta St., Tigard, OR 97223

We, most of the neighbors of this proposed development, until now have not been affected by a subdivision that caused us to know the process associated with the application process for a subdivision and therefore beg your indulgence if we have not responded in a timely manner or appropriately. Becoming familiar with all the codes and the staff report in a very short period of time is very difficult. With that said, I submit the following testimony in response to the proposed Blue Heron Park Subdivision

### 1. DISCREPANCY needs clarification:

A. Drawing dated Jan. 16, 2001 given to M. Kessler by Alpha Engineering shows the development as 4.09 acres = 178,420 sf.

**ERROR:** 4.09 acres = 178,160 sf not 178,410 sf (@43,560 sf/acre)

B. Public Hearing Notice for June 11, 2001 reads 4.15 acres (which equals 180,774 sf)

How did the acreage increase from one drawing to another? Which figure is correct?

### 2. Staff Report, Section III, page 8, Site Information:

**ERROR:** Seconded sentence reads "The western half..." however, it should read, "The eastern half..."

### 3. Planned Developments 18.350.020 (Staff Report, Section VI, pg 9)

C. A new planned development overlay zone...

Base Zone Development Standards 18.350.070

A1. States "...minimum lot size,...shall not apply except as related to the density computation under

Ch 18.715

Comment: (See Density Calculation spreadsheet - attached)

Staff Report **ERROR** on pg. 12 "maximum density allowed on the site without the sensitive land areas would be 13, not "approximately 21 units". And if the public right-of-way and private street is also excluded the maximum density would be 18.

In either case, the Density Bonus request must be eliminated/reduced on Staff Report, pg. 12.

Density Calculation 18.715.020					
<b>Calculation #1</b>					
Acreage	4.09	4.15		4.09	4.15
Gross Acreage in sf	178,160	180,774		178,160	180,774
LESS			LESS		
wetlands	23,564	23,563	Tract C	50,680	50,680
steep slopes >25%	17,421	17,421	Tract D	40,290	40,290
drainage	6,462	6,462			
	130,713	133,328			
public rt of way					
20% of gross	35,632	36,155			
private streets	18,100	18,100	Tract A	18,100	18,100
Net dev. area	76,981	79,073		69,090	71,704
At 7500 sf/R4.5 detached	10	11		9	10
At 10,000 sf/R4.5 duplex	8	8		7	7
<b>Min. &amp; Max. Densities 18.510.040</b>					
A. "Min. at 80% of maximum density"					
detached	8	8		7	8
duplex	6	6		6	6
<b>Calculation #2</b>					
Acreage	4.09	4.15		4.09	4.15
Gross Acreage in sf	178,160	180,774		178,160	180,774
LESS					
public rt of way					
20% of gross	35,632	36,155		35,632	36,155
private streets	18,100	18,100	Tract A	18,100	18,100
Net dev. area	124,428	126,519		124,428	126,519
At 7500 sf/R4.5 detached	17	17		17	17
At 10,000 sf/R4.5 duplex	12	13		12	13
<b>Min. &amp; Max. Densities 18.510.040</b>					
A. "Min. at 80% of maximum density"					
detached	13	13		13	13
duplex	10	10		10	10
<b>Maximum Density if the site had no sensitive land areas</b>					
Staff report states that maximum density "would be approximately 21 dwelling units."					
(Staff Report Pg. 12 of 37)					
<b>Comment: Maximum density appears to be in ERROR. See calculations below.</b>					
<b>Per Calculation #1</b>					
Acreage in sf	178,160	180,774		178,160	180,774
At 7500 sf/R4.5 detached	23.75	24.10		24	24
At 10,000 sf/R4.5 duplex	17.82	18.08		18	18
<b>Per Calculation #2</b>					
Net dev. area	124,428	126,519		124,428	126,519
At 7500 sf/R4.5 detached	16.59	16.87		17	17
At 10,000 sf/R4.5 duplex	12.44	12.65		12	13

#### **4. Variances 18.370.010**

B2. "An applicant who is proposing to vary a specification standard for lots yet to be created through a subdivision process **may not utilize the variance procedures** unless otherwise specified in Ch 18.730.030, Zero Lot Line Setback Standards, or Ch 18.430, **Subdivisions**

#### **5. Subdivisions 18.430**

Purpose is to

A4. ... "...lessen congestion in the streets...."

Comment:

18 units w/2 or more vehicles = 36+ vehicles at the intersection of Walnut St. & 124<sup>th</sup> with a curve in Walnut St. on the west approaching the intersection at this subdivision and a hill on the east.

No signal lights at that intersection are in the plan.

With this situation and the study stating that this subdivision would produce 180 trips per day onto Walnut, this is a dangerous situation which will contribute to more accidents. (See Staff Report, pg. 34, Traffic Study Findings)

#### **6. Gen. Provision 18.430.020**

**D. "Lot averaging.** Lot size may be averaged to allow lots less than the minimum lot size allowed in the underlying zoning district as long as the average lot area for all lots is not less than allowed by the underlying zoning district. No lot created under this provision shall be less than 80% of the minimum lot size allowed in the underlying district"

Comment:

Zone R-4.5 = 7,500 sf lots. 80% = 6,000 **not 3,800 sf. average**

#### **7. Adjustments Authorized 18.430.060**

A. "Granting of adjustments. Adjustments to the subdivision regulations prescribed by this title **may be authorized by the Director**, and application shall be made with a preliminary plan application in accordance with Section 18.430.050. Criteria for granting such adjustments are contained in Section 18.370.020 C1."

(430.050 refers to Submission Requirements: Preliminary Plat)

370.020 C1 **Special Adjustments:** "Adjustments to development standards within subdivisions (18.430). The Director shall consider the application for adjustment at the same time he/she considers the preliminary plat. **An adjustment may be approved, approved with conditions, or denied provided the Director finds:**

Ia "There are special circumstances or conditions affecting the property which are unusual and peculiar to the land as compared to other lands similarly situated

Comment: "If the special circumstances or conditions" are that this acreage contains "sensitive land"; the owner knew when he purchased the property that this area could not be developed. Therefore, there is no reason for special adjustments.

1b "The adjustment is necessary for the proper design or function of the subdivision,"

Comment: Adjustment is NOT necessary; Subdivision can be changed to comply with standard codes for R-4.5 zone and then no adjustment is necessary.

1c "The granting of the adjustment will not be detrimental to the public health, safety, and welfare or injurious to the rights of other owners of property;"

Comment: Such an adjustment is detrimental to the safety of drivers and foot traffic because of the increased vehicle congestion.

It is also injurious to the rights of other property owners.

The eight (8) units bordering the south property line are designed to have windows with direct view into my home and patio. No fencing or screening is proposed and without it my privacy in my own house is compromised as is my safety.

1d. "The adjustment is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this title."

Comment: This is **not an extraordinary hardship**. The owner knew when he purchased the property approximately 15 years ago, and lived on the property for most of those years, that the "wetland/sensitive area" could not be developed. For that very reason, his purchase price was probably much lower than similar property without the sensitive land. He would be the first to attempt to restrict any similar development that adjoined his property.

Ex.: Due to codes and restrictions for building on "sensitive land", we were only allowed to build one single-family residence on 1.8 acres with difficulty in placement of the house, and that was not seen an "extraordinary hardship" because of sensitive land through my property and no adjustments were given to us.

**See Density Calculation spreadsheet**

## **8. Design Compatibility Standards 18.720**

**Purpose** 18.720.010 ...design compatibility between ...attached single-family residential when abutting detached single-family districts ...:

1. Ensure that structures do not present excessive visual mass or bulk ... to adjoining properties;
4. Encourage architectural design that integrates well with adjoining development.

Comments:

18 two-story units, 10 feet apart, towering above my back yard is excessive visual mass or bulk.

2-story attached units do not integrate well into the Walnut St. one-level ranch style homes.

- A. Design transition... 18.720.30 When...attached single-family project abuts property zoned for detached single-family, the following design standards shall apply:

1. Building height shall not exceed two stories or 25 feet within 30 feet of the property line...

Comments:

Per page 10, 4a of Staff Report: "Buildings on Lots 7-12 maintain the required 15 foot rear yard setback. **HOWEVER,**

### **"Exceptions to Building Height Limitations 18.730.020**

C2. Maximum height for an attached single-family residential structure on a lot having sole access from a private drive is 1 ½ stories or 25 ft, whichever is less, except that maximum height may be 2 ½ stories or 35 feet, whichever is less, provided:

- d. Windows 15 feet or more above grade shall not face dwelling unit windows or patios on any abutting lot unless the proposal includes an agreement to plant trees capable of mitigating direct views, or that such trees exist and will be preserved."

Comment:

Kessler home (behind units 9, 10, 11 & 12) is situated below the grade of the proposed two story units along the abutting property line. Although the height of the proposed units will be 25 ft or less, the ground level of these units will be at much higher elevation than the main level of my home, SO any windows on the back of these units will view directly into my home and patio just as if the units were 35 feet or possibly more.

Therefore, I request the Commission to direct that no windows be allowed facing my home on the second floor level and that an eight (8) foot high, black chain link, 11.5 gauge fence be installed by the developer along the entire south property of this subdivision, and that with privacy slates be installed in the fence the full distance from the SW corner property line to the SE corner of proposed lot for unit 7.

## **9. Ch 18.745.050 Buffering and Screening (FENCE)**

Comment:

The proposed improved Private Drive with Public Sidewalks and pathway leading to the sensitive area will invite foot traffic from both Walnut St. and the subdivision. Since the current natural property barriers along the south property line of the subdivision will be removed and no property line fencing is proposed to curtail egress onto abutting property to the south (Kessler property), I respectfully request the Planning Commissions to include a condition that a fence (black chain link, 11.5 gauge, 8 feet high) from the SW corner to the SE corner of the subdivision property be installed by the developer.

The chain link fence requested will mitigate obstruction of the visual beauty and enjoyment of the sensitive area that spans both properties while simultaneously defining the space allocated to the subdivision and eliminate trespassers on abutting south properties as well as trespassers to the subdivision. I believe that residences of a high-end, gated, residential park as this would also expect the perimeter to be fenced for their privacy and safety. I further request that privacy slates be installed in this chain link fence behind proposed units 9, 10, 11 & 12 to protect the privacy of residents on both sides of this fence.

**This request is in compliance with**  
**Ch 18.745.050 Buffering and Screening,**

**A4. Purpose. By using trees and other landscaping materials to mitigate the effects of the sun, wind, noise and lack of privacy by the provision of buffering or screening.**  
**and**

**A1. General Provision. It is the intent that these requirements shall provide for privacy and protection and reduce or eliminate the adverse impacts of visual or noise pollution at a development site, without unduly interfering with the view from neighboring properties or jeopardizing the safety of pedestrians and vehicles;**

I have previously had incidences of trespassers who travel west on Alberta St., down my private drive which is posted "private property", in to my yard, along the side of my house to the back and over the 4 foot fence on my west property line, across neighboring property to Walnut St. and in one case, this was a person with a bicycle. Tigard police were called and sat watch on Alberta St. at different times for the trespasser.

Alberta St. neighbor, Nancy Kelly, has reported trespassers traveling along my east property line to and from the northeast corner of my property traveling on the southeast corner of the Hawley property. Her "large dog" alerts her to such trespassers.

Both Nancy Kelly and I are single, working property owners who are concerned about our safety. This fencing will help to insure our protection and keep our Alberta St.



neighborhood secure as well as providing a safety feature for the proposed subdivision residents.

**SUBMIT as part of this hearing:**

**PETITION** signed by neighbors opposing the high density on the small part of the acreage.

**PETITION** signed by Alberta St. neighbors supporting the need for a fence along the south property of this subdivision.

**STATEMENT** written and signed by Doug & Nancy Nash of Alberta St.

**10. Staff Report Section VI, TREE REMOVAL: CH 18.790 pg. 27 of 37**

**Comment: TREES at SW corner of proposed subdivision**

In previous discussion with Judith Farmer of Alpha Engineering, and noted on a map by Alpha, I was told five (5) trees would remain along the property line as required by the City of Tigard. However, in a discussion 6/8/01 with Kevin Young, Tigard Planning., I was told the all but one (1) of the five (5) trees will be taken out.

This impacts my trees since my trees are close to the property line where trees will be removed and root systems are most likely tangled.

What action and financial assurance is proposed to protect my trees?  
Nothing in the Staff Report address damage to trees on neighboring properties.

I hereby request written assurance that every possible action will be taken to mitigate any damage to or loss of my trees and that, if there is tree damage or loss, or damage to my home after tree removal on this subdivision, I will be adequately compensated.

I, Margie Kessler, request that the record remain open for at least seven (7) days after this hearing.

June 6, 2001

Exhibit  
D

To Whom It Concerns:

We, Doug and Nancy Nash, own a residence at 12270 S.W. Alberta. We are very much opposed to the the new Blue Heron Park Subdivision's proposed changes in zoning.

For years now the residents of Alberta Street have worked to be a united street. We have a communication system that keeps everyone informed about taking care of each other. We try to always be good neighbors. Most of the residents are long time and have seen many changes in the area.

What concerns us now is the tremendous impact on traffic that will occur if this zoning is changed. There are so many developments going in right now that Walnut and 121st are becoming major traffic routes. It seems to us that if the zoning was put there in the first place, then it should stay that zoning instead of changing right and left at the whim of a developer.

We are also concerned with increased traffic of strangers passing through our dead end street. Margie Kessler owns the land that abuts the development. At this point there is no protection from trespassers who will cut across her land to get to 121st. Right now this is not a problem but if that development goes in without any form of fencing a lot of people will be using her property and our dead end street as a short cut.

By coming across her property, she could become liable for injuries that could occur to a trespasser. Having the developer install a six-foot tall, 11.5 gauge chain link fence along the 450 foot south property line would help stop trespassing on private property and stop foot traffic through the street from people who have no business passing through.

The city of Tigard has had problems in the past with lawsuits. If this fencing were not to go in then the city could have future lawsuits facing them. Having the developer provide the fencing would eliminate the majority of future problems that could occur and prevent future lawsuits against the city for failing to protect its citizens.

If North Dakota can be turned into a one way entrance street then surely we should be protected also. We therefore request that if this development goes in in whatever density, that a fence be installed to restrict all foot travel across private property.

We want to keep our neighborhood safe and secure and this would be a good start to that.

Sincerely,



Douglas E. Nash



Nancy Lou Nash  
12270 S.W. Alberta Street  
Tigard, OR 97223

PETITION  
To Disapprove the Proposed  
Blue Heron Park Subdivision

The proposed Blue Heron Park Subdivision with 18 units will impact the surrounding neighborhoods dramatically with a large population in an area zoned "low density". We oppose the request for a zoning change from low density to high density and the variance to a lot sizes of less than 7,500 square feet.

Name & Address & Date

Jan Reynolds 12262 SW Lansdowne 6-9-01  
Theresa Jenkins 12244 SW Lansdowne 6/9/01  
Kathy Volk 12237 SW Lansdowne IN 6-9-01  
James & Suzanne Deane 12225 SW Lansdowne 6/9/01  
Pat Bate 12230 SW Lansdowne 6/9/01  
Bob Del Nero Micallef 12244 SW Lansdowne IN 6/9/01  
Chuck & George Dorsey 12705 SW 124th 6/10/01  
Sharon V. Murphy 12470 SW Walnut St 6/11/01

**PETITION**  
**To Disapprove the Proposed**  
**Blue Heron Park Subdivision**

The proposed Blue Heron Park Subdivision with 18 units will impact the surrounding neighborhoods dramatically with a large population in an approximate two (2) acre area, after subtraction of the restricted area, and in an area zoned "low density". We oppose the request for a zoning change from low density to high density and the variance to a lot sizes of less than 7,500 square feet.

Name & Address & Date

Charles O. Oliver 12300 SW Alberta St. Tigard, OR 97223 6/5/01  
 Beth M. Oliver 12300 SW Alberta St. Tigard, OR 97223 6/5/01  
 Alice M. Peterson 12265 SW Walnut St. Tigard, OR 97223 6/5/01  
 Norman Paul 12265 SW ALBERTA ST TIGARD OR. 97223 6-5-01  
 Edith Wilson Southern 12795 S. St. Alberta OR 97223  
 Brenda L. Branson 12325 S.W. Alberta Tigard OR 97223 6-6-01  
 Thomas E. Branson 12325 S.W. Alberta Tigard OR 97223 6-6-01  
 Nympha Kelly 12385 SW Alberta St Tigard OR 97223 6-6-01  
 Jeff Smith 12330 SW Alberta Tigard OR 97223 6-6-01  
 Margaret VanDriel 12360 SW Alberta Tigard OR 97223 6-6-01  
 Jeff Smith 12360 SW ALBERTA ST. Tigard Oregon 97223 6-6-01  
 Jeff Smith 12370 SW ALBERTA ST. Tigard OR 97223 6-6-01  
 Mary Ann Roshabe 12420 SW Alberta St Tigard OR 97223  
 Daniel & Michelle Kelly 12180 SW ALBERTA ST Tigard OR 97223 6-7-01  
 Daisy J. Lattin 12145 SW ALBERTA ST Tigard OR 97223 6/7  
 Dale T. Lattin 12145 SW ALBERTA ST Tigard OR 97223 6/7  
 Dale A. Lattin 12205 SW ALBERTA ST Tigard OR 97223 6/7  
 Nancy Lou Nash 12270 SW ALBERTA ST Tigard OR 6/7/01  
 Douglas E. Nash 1220 SW ALBERTA Tigard 6-7-2001  
 Deborah J. Lennell 12335 SW ALBERTA ST, Tigard, OR 97223 "  
 Kyle J. Buehler 12120 SW ALBERTA Tigard OR 97223 6/8-01  
 Alissa J. Porcelli 12240 SW ALBERTA ST Tigard OR 97223 6-8-01  
 Sofia Isaacson 12520 SW Walnut St Tigard OR 97223 6/8/01  
 Anna Cameron 12490 SW Walnut St Tigard, OR 97223 6/9/01  
 Julie M. Rau 12430 SW Walnut St Tigard, OR 97223 6/9/01  
 Marquitta Tressler 12425 SW ALBERTA ST. Tigard OR 97223 6/10/01

# **PETITION** **To Fence the Proposed** **Blue Heron Park Subdivision**

In the event that Blue Heron Park Subdivision is approved, we request that fencing be required by the development.

We, the residents of Alberta Street (a dead end street) are the neighborhood adjoining the proposed subdivision via property owned by Margie Kessler. We are a friendly neighborhood who have worked together to maintain a safe and secure neighborhood free of trespassers and crime.

One of the major concerns for the Alberta Street neighborhood is the foot travel that will cut across the Kessler property and use Alberta Street. We believe that this development should protect the privacy of the Kessler property as well as that of the Alberta Street neighborhood. We therefore request that the developer of this subdivision be required to install a six-foot tall, 11.5 gauge chain link fence along the 450 foot south property line to restrict the travel of anyone residing in or entering the subdivision from Walnut Street.

Name & Address & Date

Charles A Oliver	12300 SW Alberta St	Tigard OR 97223	6/1/01
Beth M Oliver	12300 SW Alberta St	Tigard OR 97223	6/5/01
Dee Pulsen	12265 SW Alberta St	Tigard OR 97223	6/5/01
Houm Polase	12265 SW Alberta St	Tigard OR 97223	6/5/01
Eglith W. Lathorn	12245 SW Alberta St	Tigard OR 97223	6/5/01
Lynda Bronson	12335 SW Alberta St	Tigard OR 97223	6-6-01
Thomas E. Bronson	12335 SW Alberta St	Tigard OR 97223	6-6-01
Ally G. Alley	12385 SW Alberta St	Tigard OR 97223	6-6-01
John G. Alley	12330 SW Alberta St	Tigard OR 97223	6-6-01
Margaret Vang Christ	12360 SW Alberta St	Tigard OR 97223	6-6-01
Samuel J. Christ	12360 SW Alberta St	Tigard OR 97223	6-6-01
John J. Christ	12390 SW Alberta St	Tigard OR 97223	6-6-01
Mary M. Christ	12400 SW Alberta St	Tigard OR 97223	6-6-01
Doreen L. Christ	12150 SW Alberta St	Tigard OR 97223	6-6-01
Sally J. Galt	12145 SW Alberta St	Tigard OR 97223	6/7
John G. Galt	12145 SW Alberta St	Tigard OR 97223	6/7
John G. Galt	12205 SW Alberta St	Tigard OR 97223	6/7
Douglas E. Galt	12270 SW Alberta St	Tigard OR 97223	6/7/01
Henry Lee Nash	12270 SW Alberta St	Tigard OR 97223	6/7/01
John G. Nash	12355 " "	" "	" "
Alissa L. Porcelli	12240 SW Alberta St	Tigard OR 97223	6/10/01
Marquitta B. Kessler	12425 SW Alberta St	Tigard OR 97223	6/10/01

**PETITION**  
**To Disapprove the Proposed**  
**Blue Heron Park Subdivision**

The proposed Blue Heron Park Subdivision with 18 units will impact the surrounding neighborhoods dramatically with a large population in an approximate two (2) acre area, after subtraction of the restricted area, and in an area zoned "low density".

We oppose the request for a zoning change from low density to high density and the variance to a lot sizes of less than 7,500 square feet.

Name & Address & Date

Karen L. Chong 12350 SW Walnut St Tigard OR 97223 6/9/01  
Jim R. Davis 12382 SW Walnut St Tigard 6/9/01  
WILLIAM H. FORD, 12675 SW 124TH, TIGARD 97223 6/9/01



July 9, 2001

Ms. Susan Baxter  
12230 SW Lansdowne Lane  
Tigard, OR 97223

Dear Ms. Baxter:

Your July 6, 2001, letter to the Tigard City Council regarding the appeal of the Blue Heron Park Subdivision was received at City Hall today. Your letter will be entered into the record as written testimony and submitted to the City Council with the packet of information they will receive for the hearing on this matter. The appeal hearing is tentatively scheduled for 7:30 p.m., July 24, 2001, at the Town Hall at City Hall.

Thank you for taking the time to submit written testimony. If you have any questions, please contact either Associate Planner Kevin Young or me at 503-639-4171.

Sincerely,

A handwritten signature in cursive script that reads "Cathy".

Catherine Wheatley  
City Recorder

c: Kevin Young, Associate Planner  
Bill Monahan, City Manager

I:\ADM\CATHY\COUNCIL\ACKNOWLEDGEMENT - BAXTER.DOC

Tigard City Council  
Town Hall of the Tigard Civic Center  
13125 SW Hall Blvd.  
Tigard, OR 97223

July 6, 2001

RECEIVED C.O.T.

RE: "Appeal of Blue Heron Park Subdivision"

JUL 09 2001

Dear Mr. Mayor and Council Members:

Administration

I have never written a letter like this and for all I know it may never reach the hands that it should. It is impossible for my husband and myself to attend the Council meeting due to responsibilities of small business ownership. Nevertheless, I will sleep much better for having written it.

My husband, Pete, and I have lived on Lansdowne Lane since 1991. We have watched the denuding of the hillsides in Tigard of trees, as well as tree cutting on streets surrounding where we live. We have watched displaced wildlife struggle to cohabitate with human beings and still maintain their lives. We have watched neighbors live with their lots washing down into the wetlands behind Lansdowne Lane. Somehow the quality of life in Tigard seems to be slipping. And now Mr. Erroyl Hawley wants to build more homes in this area. Is he going to do this without disturbing the wetlands or natural drainage? Is he going to do this and still leave as many trees as possible? We think not. Understand that neither of us begrudges Mr. Hawley the ability to make money. Certainly if we owned the property we would want to build on it too. This is an undeniable truth. But, is the proposal of 18 units a reasonable number given the geography of the property? Neither of us believes this is reasonable. Especially is this not reasonable in light of the problems with the property. We believe that the City is correct in requiring a Sensitive Lands Review. Certainly the City in identifying the Zoning for this property has already taken into consideration the problems with the geography of the land. Therefore, neither of us understands why Mr. Hawley cannot downgrade the amount of buildings he wants to put on that property. After all, 9 homes equate into an average of 22.5 persons living on that land (an average of 2.5 persons per home) plus their 18 cars (given 2 cars per family). Did Mr. Hawley pay so much money for the property that he cannot make any money if he doesn't stop at 9 homes on 7500 square foot lots?

We believe the City to be correct in their denial of the Blue Heron Subdivision the way the proposal is written. We also hope that the appeal is denied.

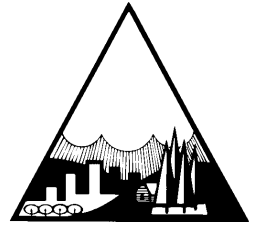
Sincerely,



Susan Baxter  
12230 SW Lansdowne Lane  
Tigard, OR 97223  
503/590-9708



# MEMORANDUM



TO: Honorable Mayor & City Council

FROM: Cathy Wheatley, City Recorder

RE: July 24, 2001 Meeting - Hearing for Blue Heron - Agenda Item No. 6

DATE: July 17, 2001

The applicant's packet material will be sent to the City Council by paper copy. This information, including maps, will also be available for the public to review in the Tigard Public Library as well as at the Community Development Department Counter in the Lobby area of City Hall.

I:\ADM\CATHY\COUNCIL\MEMO - BLUE HERON APPLICANT INFORMATION.DOC